HIGHLAND CITY COUNCIL AGENDA  
Tuesday, January 8, 2018

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

6:30 PM WORK SESSION (PUBLIC WORKS BUILDING)

7:30 PM REGULAR SESSION (CITY COUNCIL CHAMBERS)
Call to Order – Mayor Rod Mann
Invocation – Council Member Scott L. Smith
Pledge of Allegiance – Mayor Rod Mann

1. UNSCHEDULED PUBLIC APPEARANCES
   Time has been set aside for the public to express their ideas, concerns, and comments. (Please limit comments to three minutes per person. Please state your name and address.)

2. PRESENTATIONS
   a. YOUTH CITY COUNCIL SWEARING IN – Civic Events Coordinator Julie Tapusoa

3. CONSENT ITEMS
   Items on the consent agenda are of a routine nature or have been previously studied by the City Council. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.
   a. ACTION: Approval of Meeting Minutes
      Special City Council Work Session November 20, 2018
      Regular City Council Meeting December 4, 2018
      Special City Council Session December 17, 2018
   b. ACTION: Preliminary and Final Plat Approval for Petra Place Subdivision
      Council will consider a request from Clyn & Nianne Young for final plat approval of a 3-lot single family subdivision located at 11144 N 5500 W. The Council will take appropriate action.

4. PUBLIC HEARING/RESOLUTION: UPDATING THE FEE SCHEDULE FOR PRESSURIZED IRRIGATION AND STORM DRAIN RATES FOR NON-RESIDENTIAL USERS
   Council will consider approving a fee schedule change for updated pressurized irrigation and storm drain rates for non-residential users. The Council will take appropriate action.
5. **ACTION/ORDINANCE: APPROVAL OF AN ORDINANCE TO REGULATE SMALL CELL INSTALLATION AND MAINTENANCE**
City Council will consider approving an ordinance to regulated Small Cell installation and maintenance. The Council will take appropriate action.

6. **ACTION: APPROVAL OF THE FINAL MASTER PLAN FOR MOUNTAIN RIDGE PARK**
City Council should review the Final Master Plan for Mountain Ridge park and provide staff with direction. The Council will take appropriate action.

7. **MAYOR/COUNCIL AND STAFF DISCUSSION AND COMMUNICATION ITEMS**
   a. Cemetery Policy – City Recorder Cindy Quick
   b. Recycling Contract – Assistant City Administrator Erin Wells
   c. Funding Needs FY 19/20 - City Administrator Nathan Crane
   d. Annual Survey – Assistant City Administrator Erin Wells

8. **FUTURE MEETINGS**
   a. Future Meetings
      - January 15, Joint Planning Commission & City Council Work Session, 7:00 pm, City Hall
      - January 22, City Council Meeting, 7:00 pm, City Hall
      - January 29, Planning Commission Meeting, 7:00 pm, City Hall

9. **CLOSED SESSION**
The Highland City Council may temporarily recess the City Council meeting to convene in a closed session to discuss the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205

**ADJOURNMENT**
In accordance with Americans with Disabilities Act, Highland City will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at (801) 772-4505 at least three days in advance of the meeting.

**ELECTRONIC PARTICIPATION**
Members of the City Council may participate electronically via telephone, Skype, or other electronic means during this meeting.

**CERTIFICATE OF POSTING**
I Cindy Quick, the duly appointed City Recorder certify that the foregoing agenda was posted in three public places within Highland City limits. The agenda was also posted at the principal office of the public body, on the Utah State website (http://pmn.utah.gov) and on Highland City's website (www.highlandcity.org).

Please note the order of agenda items are subject to change in order to accommodate the needs of the City Council, staff and the public.

Posted and dated this 3rd day of January, 2019

Cindy Quick, CMC
City Recorder

THE PUBLIC IS INVITED TO PARTICIPATE IN ALL CITY COUNCIL MEETINGS.
PRESIDING: Mayor Rod Mann

COUNCIL MEMBERS PRESENT: Brian Braithwaite, Ed Dennis, Kurt Ostler, Scott L. Smith

CITY STAFF PRESENT: City Administrator/Community Development Director Nathan Crane, Assistant City Administrator Erin Wells, Finance Director Gary LeCheminant, City Engineer Todd Trane, City Attorney Tim Merrill, and City Recorder Cindy Quick

OTHERS: Alan Rencher, Sherry Kramer, RoseAnne Hunsaker, Paul Adams, Justin Taylor, Rachel Adams, Craig Hendricks, Julie Hendricks, Ray Ellison, Rob Donigan, Brad Pace, Cody Dingus, Jennie Dingus, Keam Taylor

7:00 P.M. SPECIAL WORK SESSION (CITY COUNCIL CHAMBERS)

Call to Order – Mayor Rod Mann
Invocation – Council Member Brian Braithwaite

The meeting was called to order by Mayor Rod Mann as a special work session at 7:05 p.m. 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 Brian Braithwaite.

1. MOUNTAIN RIDGE PARK DESIGN

Discussion and direction regarding the design of Mountain Ridge Park

Mayor Mann explained that the purpose of the meeting was to discuss the design of Mountain Ridge Park and the cost estimates that were recently received. He admitted that he was surprised when he saw the initial cost estimate because he felt the City did not have $6 million to spend on a park and he did not believe they should bond for one either. He recommended that the Council take a step back and discuss possible options.

City Administrator Nathan Crane began the presentation by explaining that staff’s role in the process was to provide the best information to the Council so they could make an informed decision. Staff would provide facts and figures and the Council would make the final decision based on the needs of the City and the residents. He noted that the numbers he would present was a “best guess” and that more accurate numbers
would be presented as they continued in the process. He noted that when a city constructs a park, the city needs to follow the public bid process as required by State Law.

He then presented feedback from the Open House. The public was given dots to put on the categories they felt were a priority for the park but staff suspected that the instructions were not followed based on the number of dots placed on one category. He then presented the preliminary master plan and the Recreation Elements chart.

The Council asked for clarification regarding the dots and City Administrator Crane explained that staff tried to only give dots to Highland City residents but more dots were applied than should have been. In theory, the categories should have been somewhat close.

City Administrator Crane then presented a slide showing the survey results. Assistant City Administrator Erin Wells explained that staff categorized the proposed elements of the park. The four categories were Tournament-Level complex, which would have 25 to 27 pickleball courts; Some Pickleball Courts, six to eight courts; No Pickleball Courts; and No Comment on Pickleball. There were 112 total responses; 93 from residents, 17 from non-residents, and two that did not give an address.

City Administrator Nathan Crane explained that they had received estimates from Design West and Blū Line, and the numbers were very different. He noted that the park would begin with raw ground, so all infrastructures would need to be installed. The main difference between the two estimates was that Design West based their estimates on a concept plan from several months ago. Since that time, the City received additional information and the cost estimate from Blū Line reflected more recent costs that were shown in Spanish Fork for their 16 pickleball courts. Blū Line also included the cost of seed instead of sod. Staff’s recommendation was to sod the park because of a shorter timeframe required to keep residents off of it. He noted another cost difference was the surface for the all-access playground. He then highlighted items that could fluctuate and reported that the property had always been designated for an athletic complex, so no matter what sport came to the area, there would be traffic, lighting, and noise concerns that would need to be mitigated. However, what was needed from Council was a discussion about cost rather than mitigation efforts.

Mayor Mann asked for clarification on the “mobilization” category in the cost estimates, and City Engineer Todd Trane explained that it was to take care of any items that were included but not specific bid items. Council Member Brian Braithwaite asked about the difference between “contingency” and “mobilization,” and City Engineer Trane clarified that contingency was based on the concept plan, but that line item disappears when the actual design happens. Mobilization would always be included.

City Administrator Nathan Crane presented the four following alternatives:

- Option 1: Complete Park, cost $7 million
- Option 2: Championship-Level Facility with 25 courts and a restroom, cost $4.56 million
- Option 3: Championship-Level Facility with 25 courts, playground, restroom, small pavilions, benches and furnishings, cost $5.34 million
- Option 4: Eight Pickleball Courts, soccer field and restroom, cost $2.55 million

A resident asked if there was an option without pickleball courts, and the response was that there was not an option without pickleball but that could still be discussed. The four options presented all contained pickleball courts because of the potential funding for pickleball.
Council Member Ed Dennis asked how many courts would be necessary for a championship-level facility, and Lorna Reed said that they needed 27 courts. He questioned what else was necessary to begin fundraising.

Mayor Mann asked about the ongoing maintenance costs of the pickleball courts and City Administrator Nathan Crane responded that they estimated the cost of court maintenance over a ten-year period and calculated that at $52,000 per year for 25 courts.

Council Member Brian Braithwaite suggested that they find more information on maintenance and repair for pickleball courts. A resident stated that she had done some research and found that many pickleball courts were self-sustaining. City Administrator Crane confirmed that they had done an analysis of potential revenue for the courts.

Council Member Dennis explained that the genesis of the park was the pickleball courts. They still had not addressed the rendering Lorna Reed needed to start fundraising efforts. City Engineer Todd Trane commented that if they wanted to move forward with a championship pickleball court, they would need to ensure that the group had what they needed. The concept plan changed from 27 courts to 25 courts before the open house, but that would need to go back to 27 courts for championship pickleball. Council Member Brian Braithwaite felt that going with 27 courts did not make sense for the City, unless they get the funding from the Pickleball Association to build the park. If they did not get funding, the City would need to walk away.

Mayor Mann commented that in the best case scenario there was still a $2 million gap in funding. He did not know where that money would come from. Council Member Kurt Ostler said that he was not aware of what a championship pickleball court was supposed to look like and asked Lorna Reed to direct them to an existing facility so that he could look at it. Council Member Brian Braithwaite reiterated that if they did not get the funding, the park would not be constructed. If they were unable to fund the rest of the park, he questioned if they should move forward with the pickleball courts only. It was noted that the pickleball group was confident that they could raise at least $700,000 by March 1, 2019.

Allen Wentworth asked how he could be part of the design committee or suggest concept designs for other sports facilities. He questioned the City for focusing on pickleball, stating that it would only serve a small portion of the City.

Mayor Mann responded that people of all ages play pickleball every day. He invited Mr. Wentworth to make an appointment with staff and attend the public meetings. Council Member Braithwaite explained that staff was following the direction of the City Council in preparing the options that were presented.

Mr. Wentworth was concerned that he had not heard anything about the pickleball courts until it was already decided. Council Member Scott L. Smith noted that they could research other fundraising options if they decided not to do pickleball courts.

Barbara Pace explained that four pickleball courts could fit in the space of one tennis court. She felt that the Spanish Fork courts were always busy and that pickleball would affect a large demographic. She wanted residents to understand that 27 courts may be a smaller footprint than they were imagining. She provided examples of recreation grants for which Highland could apply.

Ray Ellison felt the cost issue was a real concern but based on the numbers presented to the Council, the gap would be closer to $1.5 or $1.2 million. One of the problems they had in getting to that gap was having a rendering to present to potential donors.
Council Member Ed Dennis asked for the timing of donor contributions, and Mr. Ellison explained that donors were usually tax motivated, so the best time to approach them for donations was right at the end of the year. Council Member Dennis would support that. He felt it was critical to get a rendering prepared that was acceptable. Without fundraising, they would be unable to even do any of the proposed options.

Mayor Mann stated that there would be some funding available from the sale of City property.

Council Member Kurt Ostler commented that that they could do the park in phases based on funding. Council Member Brian Braithwaite felt if they did not hit the target for the year, they could work toward the target next year, or they could reevaluate and add other sports facilities to the park.

There was a discussion regarding the rendering that the pickleball people needed for fundraising and Council Member Kurt Ostler asked who determined if the rendering was correct. It was clarified that the rendering needed to be made by staff and the pickleball organizations together.

Council Member Scott L. Smith asked Lorna Reed what would happen if the courts were not done by September. He asked if they would continue to seek funding, to which Lorna Reed responded that this was a possibility. She stated that she had been showing the Council what the courts needed to look like for four months and they had thoroughly vetted plan. They needed to know what the City wanted to be able to put the information together for them. The current plan was put together using information they received from tournament directors all over the country.

City Engineer Todd Trane said that the plans from Blû Line and Design West included 27 courts. The only reason they changed it to 25 before the open house was to restrict the concrete. Lorna Reed was uncomfortable showing a plan to potential donors when it could change.

Council Member Brian Braithwaite said that they did not consider the impact to fundraising when they decided on the number of courts. The number of courts needed to generate donations; otherwise, they needed to scale it back. Ms. Reed said that there were iterations that could work. It was important to note that the pickleball courts would only be three acres of the 17-acre park. She believed that grass would cost more to maintain than concrete courts. She also noted of what she thought was a perceived idea that the courts would generate noise but there were ways to mitigate that potential nuisance. Council Member Scott L. Smith felt that there would be concerns about noise no matter what goes into the park. He believed soccer fields would generate just as much noise.

City Administrator Nathan Crane said he was uncomfortable bidding a park without having the money to do so.

Cody Dingus said he loves living in Highland and built his dream home in Mountain Ridge. The pickleball courts would be against his backyard. He was concerned felt that the City Council was missing a few things that would negatively impact the residents, particularly with noise. There had been situations where citizens had sued their city because of noise nuisances. He was also concerned that their property values would go down and that the courts would attract a different crowd than was welcome as well as an increase in crime. He said he would send the Council Members an email with the studies he found.

Rachel Adams said her home would be right behind the pickleball courts. Her home sits high above the wall that exists, so her entire main floor could be seen above the wall. She said that there already was a noise concern because of the acoustics of the brick wall. She believed the sound of 27 pickleball courts could drastically change her life. She felt that pickleball courts would be more appropriate in a park that was not adjacent to a residential neighborhood.
Council Member Scott L. Smith said that there would be noise no matter what they put in the park. In this case, the pickleball courts would likely only be full during tournaments which would only be a few times a year.

Sherry Kramer said that she didn’t live by the proposed courts but she did live near tennis courts that were in need of repair. She had written to the Council about her concerns, including the worry that the residents did not know about the pickleball courts until they were pretty much a done deal. She was also concerned about noise because the noise created by the sport would be different from that of a soccer field. She reported that Colorado Springs has three pickleball court locations and none of them were near residential neighborhoods.

Mayor Mann said that this was not a done deal.

Justin Taylor said he was building a house near the proposed courts. He asked why there was no option for a park without pickleball courts. He felt that a park would be a lot less expensive without the courts.

City Engineer Todd Trane clarified that the estimate for concrete included more than just the courts. It also included parking, sidewalks, restrooms, curbing, and so forth. A lot of infrastructure needed to be done before any courts went in.

Mr. Taylor suggested that there may be some soccer organizations that would fund soccer fields in the park. Council Member Brian Braithwaite said this still would not create a whole park. The pickleball people would be donating the funds so that they could use the courts for a few tournaments per year. The rest of the time, the courts would be used by Highland residents. Soccer fields would be used by soccer teams for most of the year. Council Member Kurt Ostler added that a soccer association could help fund the park but they had asked that the City commit a period of time from 3:30 to dark for soccer team usage only.

There was a brief discussion regarding potential sound mitigation efforts.

City Engineer Todd Trane said that Option 4 would only complete about one-third of the park. If they took the eight pickleball courts out of that plan it would save approximately $360,000. The cost of infrastructure would be there with or without the pickleball courts.

Mr. Taylor asked for an option that phased the park without the pickleball courts.

Barbara Pace reported that her family had attended a pickleball tournament and it was much quieter than any baseball games that they had attended. She noted that pickleball did not attract cheering and screaming crowds. She felt that pickleball courts would be self-sustaining and would be better than having vacant property in the location.

Council Member Ed Dennis asked staff if they would be meeting with the fundraising group tomorrow and City Administrator Nathan Crane confirmed. Council Member Dennis then asked Lorna Reed what more she needed from the City to start fundraising. Ms. Reed said she was looking to work with Blú Line to come up with something that fits the tournament-level facility. She was confident that they could put together a good plan.

The Council discussed the difference between Options 2 and 4. It was noted that if they chose to build all of the pickleball courts along with Option 4, it would increase the cost by $1.2 million.
Council Member Brian Braithwaite was concerned that they not only did not have the money to build the pickleball courts but there was a concern that they were running out of time to do it. If they chose Option 2, they may not have time to get everything in place by September. City Administrator Nathan Crane presented the estimated revenue of the pickleball courts which could annually bring in $64,991. Council Member Braithwaite asked that more research be done so they could have more accurate numbers. Regarding the gap, he said the City would have to reevaluate the park if they were unable to receive funding. They would not build a park without any money.

Council Member Braithwaite asked what feedback they wanted to give to the Parks Committee. Mayor Mann commented that it might be wise to slow down and examine the situation better. Rarely had he made a good decision when he needed to make one immediately. Council Member Scott L. Smith agreed. He did not want to block fundraising but he felt that more research could be done before the Council made a decision. Council Member Kurt Ostler said they should rely on the Parks Committee to design the park with what they think is necessary and bring it back to the Council.

A resident asked how they could make their voices heard after the meeting and Mayor Mann recommended that they reach out to City Council Members personally.

Mayor Mann said the Parks Committee should also look at amenities and phasing the park. He would like the Committee to reach out to the community during the process. Council Member Scott L. Smith asked that the Committee research more ways for fundraising and grants. They would need many donations in order to build the park.

City Administrator Nathan Crane said they were on a pretty tight schedule. This item was to be presented to the Planning Commission on November 27th and to the City Council on December 4th and then an open house on December 5th. If the Council wanted additional involvement from staff and Committees, he would not be able to meet the deadlines.

After some discussion, they decided to delay the item and present the item to the Planning Commission in January. Council Member Ed Dennis was concerned about losing the fundraising window. The conversation returned to Options 2 and 4. Council Member Scott L. Smith was in favor of Option 2 and reassessing the project if fundraising did not come through. Council Member Brian Braithwaite said their discussion seemed to be pointing to Option 2 and he asked if the Council wanted to continue on that path. He confirmed that the Parks Committee would communicate and bring forward more information to the table. No matter when the item went to the Planning Commission, they would be sure that engineering was done by March 1st and hopefully they could meet the August 1st deadline for the courts. He believed that the purpose of the Parks Committee was to raise funds. He emphasized that the Committee was an advisory body and they would not be making any final decisions.

**ADJOURNMENT**

Mayor Rod Mann called for a motion to adjourn.

*Council Member Ed Dennis MOVED to adjourn the meeting and Council Member Scott L. Smith SECONDED the motion. All voted yes and the motion passed unanimously.*

*The meeting adjourned at 9:13 PM.*
I, Cindy Quick, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on November 20, 2018. This document constitutes the official minutes for the Highland City Council Meeting.

[Cindy Quick's signature]

Cindy Quick, CMC  
City Recorder
PRESIDING: Mayor Rod Mann

COUNCIL MEMBERS PRESENT: Brian Braithwaite, Kurt Ostler, Scott L. Smith – Ed Dennis and Tim Irwin participated electronically

CITY STAFF PRESENT: City Administrator/Community Development Director Nathan Crane, Assistant City Administrator Erin Wells, Finance Director Gary LeCheminant, City Engineer Todd Trane, Planner Tara Tannahill, City Attorney Tim Merrill, and City Recorder Cindy Quick

OTHERS: Natalie Ball, Devirl Barfuss, Corwin Harmon, Tyson England, Ginger Harris, Kyle Pettit, Kye Tanner, Karalee Pettit, Colby Gibson, Darin Mano, Scott Thompson, Layne Shelley, Rosalie Shelley, Becky Juchau, Dave Stone, Robert Rolapp, Helene Paskrus, Brady Mather, Braden Mather, Cameron Lackey, JJ Thurman, Michael Martin, Derric Rykert, Tricia Mendenhall, Heather Schow, Don Merrell, Michael McKendrick, Wade Hadlock, Boyd Timoth, Grant Chandler, Alisha Gray, Brent Wallace, Lori Blakesley, Lorna Reid, Bruce Tucker, Andrew Ford, William Roberlt, Katie Hatch, Chet Smith, Shonnie, Smith, Jennifer Nielson, Mike Jensen, Mark Hafen, Lucie Holman, Kristen Bradshaw, Regan Reichert, Evelyn Jankovich, Cori Ollerton, Mark Thompson

7:00 PM REGULAR SESSION (CITY COUNCIL CHAMBERS)
Call to Order – Mayor Rod Mann
Invocation – Council Member Kurt Ostler
Pledge of Allegiance – Council Member Brian Braithwaite

The meeting was called to order by Mayor Rod Mann as a regular session at 7:00 p.m. 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 Kurt Ostler and those assembled were led in the Pledge of Allegiance by Council Member Brian Braithwaite.

Mayor Mann requested that City Attorney Tim Merrill speak to the concerns raised about the potential conflict of interest of Council Member Ed Dennis. City Attorney Merrill had examined State Law and felt that there was no conflict of interest in this case. Council Member Ed Dennis lived in the neighborhood involved in the request, however, any personal benefit he would derive was equally offered to every resident of that neighborhood.

Mayor Mann supported his conclusion.
Council Member Brian Braithwaite disagreed and explained that he based his opinion on the size of the impact. An increase in taxes or fees affects everyone in the City but this was a specific application and affected a specific group of people. He felt that Council Member Dennis would benefit financially from the proposed change and that conflict should be disclosed.

Mayor Mann explained that Council Member Dennis had already disclosed the possible conflict.

Council Member Kurt Ostler agreed with Council Member Braithwaite. He read from the Ordinance regarding a conflict of interest, which stated that “officials may not use a position to influence a governmental decision to which they have a financial interest or to secure an economic benefit for themselves or another.”

Council Member Scott L. Smith disagreed. He noted that the concern raised was exactly why he had opposed the new ordinance that was passed regarding conflicts and felt it was now being used as a political weapon. He did not believe that Council Member Dennis would get any more benefit than others in his neighborhood and he may not see any financial gain until the distant future.

Mayor Mann felt that each Council Member made a fair point. He explained that a Council Member can declare a conflict of interest and still vote on an issue. There was no obligation for a Council Member to recuse themselves from voting.

1. **UNSCHEDULED PUBLIC APPEARANCES**

   Time has been set aside for the public to express their ideas, concerns, and comments. (Please limit comments to three minutes per person. Please state your name and address.)

   Natalie Ball provided an update on the recent open space conflict within her neighborhood. In May, the Council approved a sale of open space properties for the price of $1.40 per square foot. Some residents added nearly half an acre to their properties for around $30,000. The case that was presented to the Council was that the property in question was both an eye sore and a fire hazard and she felt the $20 monthly open space fee was not being used correctly. The Council made no stipulations for improvements to the property and gave no deadlines. The owners would be able to install fences. The owners would pay to move City pipes and they had a certain period of time to pay the City, depending on how much their final bill would be. Six months after the approval, not much had changed on the property and it was still an eye sore. What concerned her the most was that many of her neighbors refused to speak to or interact with her because of her opposition to the proposal. She felt it was tragic to see neighbors harbor such negative feelings towards each other and she did not want to see that happen in the Wimbleton subdivision. Ms. Ball said that two years ago she knocked doors for the R-1-40 referendum and found that many residents had negative feelings about the trails. She believed this was not simply a neighborhood issue. One thing she wanted to point out was that there were many different opinions about what a “well-maintained trail” should look like, ranging from natural dirt trail to paved and landscaped areas. She urged the Council and residents to respect the rules that were set forth for the open space neighborhoods and stop trying to change them halfway through the process. She alleged that open space “disposal” was basically City-subsidized and City-financed equity offered only to the lucky few. Ms. Ball also opined that Council Member Dennis should recuse himself from voting in the issue.

2. **PRESENTATIONS**

   a. **YOUTH CITY COUNCIL** – Youth Council Member

      There were no Youth City Council Members present to give a report. Mayor Mann expressed appreciation for the Youth Council and all of their efforts over the past year.
b. ROAD PROJECTS UPDATE – City Engineer Todd Trane
City Engineer Todd Trane provided an update of the road projects throughout the City. They were in the process of finalizing the 2018 projects and working on plans for the 2019 project. He presented the seven-year road plan and specifically addressed the 6000 West project. That project had unforeseen conditions with soft soils, so they had incurred some unanticipated costs. The entire project ended up costing over $1 million. He showed photographs of the finished road. All of the road projects for 2018 came to roughly $1.5 million. He then presented a list of roads they planned to work on in 2019 which they planned to send out for bid in January.

Council Member Scott L. Smith commented that he had heard nothing but positive feedback from the residents about 6000 West. He had not heard any complaints about the road fee. He asked if American Fork would be assisting Highland City when they worked on 9600 North. City Engineer Trane explained that staff was reaching out to American Fork to see if they would participate.

Mayor Mann asked for an update on the East-West connector, and City Engineer Todd Trane reported that the bid was awarded to Horrocks Engineers. The road could connect between SR74 and North County Boulevard below Lone Peak High School. There would be an open house sometime in February where Horrocks Engineers would present their design. The road could be under construction as early as next summer.

City Engineer Trane reported that the City had applied for funding for 6800 West which had been granted. Highland, Lehi, and Utah County would have to match 6% of the $2 million project.

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

a. ACTION: Approval of Meeting Minutes
   Regular City Council Meeting November 13, 2018

b. ACTION: Approval of the Creation of a Library Page Position
   City Council will consider approving the creation of a new page position for the Library. The Council will take appropriate action

c. ACTION: Ratification of Water Advisory Board Member
   City Council will consider ratifying the reappointment of Tavis Timothy to serve as a Water Advisory Board Member for a term of four years beginning on January 2019 – December 2023. The Council will take appropriate action.

Council Member Ed Dennis requested that the name of the person giving the invocation be corrected in the minutes from the November 13, 2018 meeting and noted that Ms. Pettit did not reside in the Wimbleton subdivision and should be corrected in the minutes.

Council Member Brian Braithwaite MOVED to approve consent items a., b. and c. as listed on the agenda. Council Member Scott L. Smith SECONDED the motion.

The vote was recorded as follows:
Council Member Brian Braithwaite Yes
Council Member Ed Dennis Yes
4. PUBLIC HEARING/ACTION: CONDITIONAL USE PERMIT FOR A COMMUNITY PARK KNOWN AS MOUNTAIN RIDGE PARK – Continued

The item was continued.

5. DISCUSSION/ACTION: REGARDING THE PURCHASE PRICE FOR ORPHAN OPEN SPACE PROPERTY

Council Member Ed Dennis restated his conflict of interest regarding the purchase price for orphan open space property. He stated that he was a resident of the Wimbleton subdivision and lived adjacent to the neighborhood option trail. He also noted that he signed the petition attached to the disposal request. He believed the personal interest was incidental and did not present a conflict of interest or violate the Municipal Officers’ and Employees’ Ethics Act, which would allow him to vote on the petition based on the following facts: 1) the solution and method to remove and dispose of the Neighborhood Option Trail was approved by a previous City Council; 2) the purpose of the petition was to address a problem that goes back over 16 years; 3) the process for the removal and disposal of the Neighborhood Option Trail was identical for all eligible residents, including himself, which includes no special privileges for him; 4) the same process to remove and dispose of a Neighborhood Option Trail had previously been approved by the City Council in other neighborhoods; and 5) as an adjacent property owner and resident of the Wimbleton Subdivision, all adjacent property owners were entitled to the First Right of Refusal to purchase the adjacent property, which again includes no special privileges for me. He noted that he was unsure whether he would vote on the issue or not but would reserve that until after the discussion.

Council Member Kurt Ostler began the discussion by voicing his objections to the fair market value that had been established for orphan properties which was $1.40 per square foot. By law, the City must sell their property for fair market value. He felt they needed to make sure that they had an accurate way of determining that amount. When the $1.40 amount was established a few years ago, County Assessor Susan Dunbow had told the City that orphan parcels were valued at $1.00 per square foot. Council Member Ostler contacted Ms. Dunbow about the cost and she reported that the value was now at $3.00 per square foot. Most orphan parcels sell for anywhere between $1.60 and $2.80 per square foot. The value would be difficult to determine with so many different assessments out there. In his research, he found that many determined the value of an orphan parcel at 25-30% of the appraised value of a buildable lot. The County Assessor uses 10-15% below true market value. Council Member Kurt Ostler proposed that the City establish the value of orphan parcels at 25% of the County Assessors’ market value of the residential real estate. He further proposed that on November 1st of each year the City Council revisit the value and determine if it reflects current market value for orphan parcels.

Council Member Scott L. Smith appreciated the research presented; however, he was not comfortable using the County assessment because it fluctuates depending on the economy. The County Assessor also bases their appraisal on several things, including the structures on the property and the location. He thought that the County assessment could be a factor in determining fair market value but they should have a professional appraiser assess orphan properties in the City. There were 18 open space neighborhoods in Highland City and the City did not have enough revenue to maintain them. Council Member Smith
reported serving on the Open Space Committee for several years and noted it was always a concern. Many residents had chosen to maintain the City’s property at their own cost rather than let the properties be overcome by weeds. Additionally, they were charged a $20 monthly fee for the maintenance of open space but the open space was still not being maintained.

Council Member Ostler noted that there were two values on the County appraisal and one was the value of the property without the improvements. The reason he recommended 25% of the County assessment was that the County would look at different areas of Highland and work that into their assessment. It would not be cost effective for the City to have each orphan piece appraised. If they established the 25% rule and a resident felt the appraisal was unfair, they could go to the County and appeal it.

Council Member Dennis asked why Ms. Dunbow’s recommendation of fair market value had increased so much over a four-year period. Council Member Ostler said that he had asked her the same question and she explained how the changing economy had altered values over the past few years.

There was a brief discussion regarding the assessment of Council Member Dennis’s home and how it had changed 30% over the past few years. He wanted to speak with the County about the significant changes. He spoke of the trail deterioration in the Wimbleton subdivision and the easement surrounding the ditch owned by Lehi Irrigation Company. He felt that their situation was unique and that their properties could not be properly valued using the standard process. Council Member Dennis wanted to allow people the option to get their own appraisal.

Council Member Kurt Ostler noted that this decision would not just affect the Wimbleton subdivision, but it would apply to all orphan properties in the City. He was trying to present an option that would work overall.

Council Member Scott L. Smith said that the City sold some property to the Alpine School District for approximately $300,000. The cost per square foot would have been roughly $1.50. He asked if the property was appraised at that time. City Administrator Nathan Crane noted that it was appraised for more than $400,000. It was noted that the City and the School District came to an agreement to share parking for the school and the soccer fields there.

Council Member Ostler was concerned that the City had a pattern of selling property far below fair market value.

Council Member Smith wanted all properties to be appraised by a professional appraiser rather than just going with the County assessment. Council Member Ostler noted that the County was full of professional appraisers.

Council Member Dennis restated the unique points of his property and the Wimbleton subdivision and said that it would be appraised again.

Council Member Ostler was concerned that they would never be happy choosing an appraiser because someone would complain about whoever they chose. He believed he had suggested a solution that would fit most circumstances. Council Member Dennis wanted to ensure the there was an option for residents to seek another appraisal.

The Council continued to discuss independent appraisals vs. the County assessment. Council Member Brian Braithwaite reported that when they talked about the price originally, they decided on $1.40 because $1.00 felt too low. It was difficult to pinpoint a price because the appraisals all came in differently. Now,
they were trying to find a solution that would simplify the process. They never thought that $1.40 would be
the best price forever. He felt that Council Member Ostler’s proposal could work but it may not fit every
situation. It was important to have a standard but there would be exceptions.

Council Member Smith said that the next agenda item was based on a petition from the Wimbleton
subdivision for the City to dispose of orphan parcels. When they submitted their petition, they believed
there would be a specific price for the land. It would be unfair to the residents for the Council to change
that price now. Council Member Ostler was fine moving forward with the Wimbleton application. He
suggested that the 25% was something they should set for petitions moving forward.

Council Member Braithwaite said that the Council had an obligation to the rest of the residents to decide on
a fair price for property. He did not think it was fair to vote on $1.40.

Council Member Smith felt that the problem with open space neighborhoods was the design and the fee
charged to residents. When they moved into the open space subdivision, the residents were told that they
would be charged an open space fee because their property taxes would be lower than other residents with
larger lots. That simply was not true. The residents had been treated like second-class residents. He
suggested that the Council consider charging a fee for parks to all residents in the City. He did not feel
comfortable changing the price for the Wimbleton subdivision at the last minute.

Mayor Mann opened the floor for public comments.

Grant Chandler, a resident of the Wimbleton Subdivision, commented that there were many neighbors that
signed the petition that did not want to purchase the City property but felt it was their only option after 17
years of struggling. Their desire was not to develop the property or make their lots larger and more
valuable. They simply wanted the ability to maintain the property in a way that the City could not. The
residents had already spent thousands of dollars trying to keep the weeds down with the harassment of the
City. He did not think it was fair to change the price right before hearing the residents’ petition.

Council Member Braithwaite admitted that the City had not been good neighbors in their situation. They
simply did not have the budget to maintain the trails at the level the residents expect. The problem
extended beyond this one trail in Wimbleton. Even if they dispose of the property in this location, there
were many other trails that were not being maintained.

Ginger Harris, a resident, said that the $1.40 per square foot was a ridiculously low price. She did not sign
the petition because she did not want more land and did not want to pay $35,000 it. She did not feel that
she would get that value back. When she spoke to an appraiser, they told her the value was determined by
the home on the lot, not the property alone.

Don Merrell, a resident, said that he had suffered through the weeds on the City property for years. The
truth was that the price of the land was what people were willing to pay for it. He questioned whether the
City had a vested interest in selling the property. They would get revenue that the City needed and the
properties sold would not have to be maintained by the City any longer. Mr. Merrell did not have a vested
interest in buying the property but believed the property was not worth $3.00 per square foot. He felt that if
the City raised the price they would no longer have any buyers. He again reiterated that he believed the
value of the property was $1.40 per square foot.

Boyd Timothy, a resident, encouraged the Council not to have one fixed price for all orphan properties,
because each subdivision was unique. Each situation should be valued individually.
Laren Harley, a resident, felt that the entire situation was crazy. He did not live near a trail and did not have to pay $20 a month like other residents had mentioned. He believed raising the price of the property now was another blow to the residents who had been struggling with the property for 17 years. He asked where the $1.40 per square foot amount came from.

Council Member Ostler responded that the number was established in 2014 when the issue was brought up previously by another subdivision. Residents of Wimbleton were under the impression that would be the price they would pay for the property when they submitted their application.

Mr. Harley said that the trail system was a joke and the City should not have trails if they could not afford to maintain them.

Andrew Ford, a resident, said that they needed to consider what the property was worth to the City or to another owner. These residents purchased their homes with no intent to buy the trail. The value of the property may drop because of selling/buying the property.

Kristen Bradshaw, a resident, asked if the Council would be discussing the Spring Creek property tonight. She had received a notice of the hearing but did not see it listed on the agenda.

City Administrator Nathan Crane said that there was an error in noticing and the Spring Creek application would be discussed in January. The Council apologized for the error.

Colby Gibson, a resident, was frustrated that the item was being discussed before the Wimbleton subdivision petition. He believed the order of the items should have been switched. He suggested that they table the discussion until after discussing the petition.

Council Member Smith agreed.

Council Member Kurt Ostler MOVED that any disposal of open space orphaned parcel be valued at 25% of the Utah County assessed market value on the residential real estate. Furthermore, on November 1st of each year, the 25% value is adjusted to reflect the County assessed value concerning orphaned parcels. Also, as proposals come in, if there was an exception for their open space subdivisions, they can submit that for further discussion.

Council Member Brian Braithwaite asked to modify the motion by allowing the City Council to consider any appraisal brought by the residents, or any other concerns they may bring forward as part of their petition.

Council Member Kurt Ostler accepted the modification.

Council Member Brian Braithwaite further stated that it was important to establish a base line and if a resident felt that there was something unique about their situation, the Council should listen to understand the issue and then make an educated decision.

Council Member Smith asked if he was suggesting that the neighborhood could bring in an independent professional appraisal for the Council to consider, as well as, considering the County assessed value. Council Member Braithwaite answered affirmatively.

Council Member Brian Braithwaite MOVED to amend the motion to include that a petitioner can bring in an independent appraisal as part of their petition or any other items they feel is important to them.
Council Member Kurt Ostler SECONDED the amended motion.

Council Member Scott L. Smith asked to further amend the motion to state that the change would not apply to the Wimbleton subdivision application but for all future applications. Council Member Dennis seconded his amendment.

Mayor Mann asked the Council to vote on Council Member Kurt Ostler’s motion with Council Member Brian Braithwaite’s amendment. Council Member Kurt Ostler reiterated the motion.

Council Member Kurt Ostler MOVED that any disposal of open space orphaned parcels be valued at 25% of Utah County’s assessed market value on residential real estate and further propose that on November 1st of each year the 25% value is adjusted to reflect the County Assessor’s value on orphaned parcels. In addition, if any petition that is submitted from a subdivision can supply an independent appraisal and any supporting evidence of items that would have an impact on that price.

Council Member Scott L. Smith SECONDED the motion.

There was a brief discussion regarding the process of making motions, amendments, and voting. City Attorney Tim Merrill clarified that Council Member Kurt Ostler effectively withdrew his original motion and replaced it with the modified motion. This would become the only motion.

Council Member Scott L. Smith MOVED to amend the motion that it would not go into effect until after the meeting.

Council Member Ed Dennis SECONDED the amendment.

Council Member Ed Dennis explained that he seconded the amendment because he felt that the fair market value would be a moot point for the next item. He wanted the residents to have an option for the Council to consider an independent appraisal or other issues. Council Member Braithwaite felt that they already had that option without the latest amendment. Council Member Smith asked if the original motion would allow the Council and residents to discuss the $1.40 option. Council Member Ostler confirmed that they could bring forward other options.

Council Member Braithwaite said that it might be fair, to both sides, to continue the item. He was struggling with the $1.40 price and the proposal from the subdivision suggests further discounts. Council Member Smith asked if he was suggesting continuing the item or the Wimbleton subdivision application. Council Member Braithwaite responded that he wanted to continue the Wimbleton subdivision application because he wanted more information.

Council Member Scott L. Smith MOVED to amend the motion that it will not go into effect until after the meeting.

Council Member Ed Dennis SECONDED the amendment.

The vote was recorded as follows:

- Council Member Brian Braithwaite: No
- Council Member Ed Dennis: Yes
- Council Member Tim Irwin: No
- Council Member Kurt Ostler: No
- Council Member Scott L. Smith: Yes

The amended motion failed.
After continued discussion, Mayor Mann asked the Council to vote on the original motion made by Council Member Kurt Ostler.

_Council Member Kurt Ostler MOVED that any disposal of open space orphaned parcels be valued at 25% of Utah County’s assessed market value on residential real estate and further propose that on November 1st of each year the 25% value is adjusted to reflect the County Assessor’s value on orphaned parcels. In addition, if any petition that is submitted from a subdivision can supply an independent appraisal and any supporting evidence of items that would have an impact on that price._

_Council Member Scott L. Smith SECONDED the motion._

The vote was recorded as follows:

- Council Member Brian Braithwaite **Yes**
- Council Member Ed Dennis **Yes**
- Council Member Tim Irwin **Yes**
- Council Member Kurt Ostler **Yes**
- Council Member Scott L. Smith **No**

The motion passed.

6. **PUBLIC HEARING/RESOLUTION: DESIGNATION OF OPEN SPACE PROPERTY FOR DISPOSAL AND REMOVAL OF NEIGHBORHOOD OPTION TRAILS IN WIMBLETON SUBDIVISION**

Planner Tara Tannahill oriented the Council with the proposal to designate open space property for disposal and removal of neighborhood options trails in the Wimbleton subdivision. She presented a map outlining the subdivision and identified the trails, ditch basin, sewer easements, and manholes. She noted that Lehi Irrigation Company owned and maintained the ditch and the easement around it. In the application, the residents were proposing a price of $1.30 per square foot because of the trail and other constraints. They would also like to fence the area.

Council Member Dennis noted that there was a stipulation in the proposal that would prohibit fencing property that was identified as City property, including easements. Planner Tannahill confirmed and added that they would only be allowed to put grass on those properties.

Planner Tannahill reported that 74% of the property owners of the Wimbleton subdivision signed the petition and 100% of property owners adjacent to the trails or other proposed properties signed the petition. Staff had received nine public comments via email, with six in opposition, two in support, and one with inquires. Some of the outstanding issues included the purchase price reduction, the potential alterations to essential detention basins, the loss of City sewer easements, and the suggestion of City financing. Lehi Irrigation Company also had concern about accessing the ditch if the properties were sold. If the properties were sold, they suggested piping the ditch.

Council Member Dennis asked for clarification on the sewer easements. City Administrator Nathan Crane explained that there was 435 feet of sewer lines between the Westwood subdivision and the Wimbleton subdivision. He noted three manholes along for access. He identified these locations on a map. Staff’s concern was the ability to access and clean the sewer lines if the property was sold. When the sewer has a backup, they would need to access the problem in a timely manner.
Council Member Dennis was concerned that the City would create islands by maintaining easements. Every residential property had easements for utilities and an anticipated inconvenience. He said that there was a 15-foot easement around the ditch which should allow for vehicular access for maintenance.

Mayor Mann opened the public hearing at 9:29 PM and called for any citizens who would like to speak on the item to come to the podium and state their name for the record.

Citizen Comments:

Mark Haffen, a resident, read a written statement expressing his support of the proposal. He did not feel that the City was asking for fair market value. He was willing to purchase the property but only if the price was more reasonable.

Scott Thompson, a resident, urged the Council to deny the application. The petition was submitted with 74% of the neighbors’ signatures but he assured the Council that the neighborhood was not united. There were several ways that they could handle the situation and the neighborhood could not agree on just one. He commented that some of the individuals that signed the petition only did so because they felt pressured or because they could not see any other option. Mr. Thompson said that they needed more information before making a decision on the proposal. Selling the trails could detract greatly from the neighborhood. He would rather find a way to maintain the trails and open space.

Mayor Mann read a statement from Johnny Walters, a resident, expressing his opposition to the proposal.

NOTE: Police Chief Brian Gwilliams left the meeting at 9:42 PM.

Rosalie Shelley, a resident, said that she had emailed the City Council when she found out about the proposal and hoped that they took her words into consideration. She appreciated the open trails and knew that many other people felt the same way. She thought it would be a travesty to close them off.

Jason Hawkins, a resident, said that the property was a huge mess. He tried to maintain the property behind his home but gave up and let the weeds grow. He would like the City to maintain the property but understood that people had different ideas of what it meant to be well-maintained. He felt the issue had continually been kicked down the road hoping someone else would fix the problem and everyone was frustrated.

Alisha Gray, a resident, agreed with the comments that had been made and said that the City should be maintaining the property. The money open space fee they had been paying was not doing anything for the subdivision. She recently learned that the park behind her home was a public park but there were no bathrooms and no facilities. She suggested that the situation was unacceptable.

Corwin Harmon, a resident, did not feel that the Council should vote on the issue at the meeting. They needed to have a better understanding of the value of the property. He noted that he purchased his property but did not build on it for seven or eight years. During that time, he received several notices from the City to clean up the weeds on his property. However, the City did not do anything about the weeds on its own property. Mr. Harmon was against the property being sold and fences going up. He wanted the open space to remain.

Mayor Mann spoke about the City’s lack of revenue and the recent process to enact a road fee to maintain City roads. It was possible to do a fee for parks and recreation as well. Alternatively, they could increase property tax to pay for parks maintenance.
Colby Gibson, a resident, spoke about the garbage that he had to remove from the property behind his home. He understood the funding issue but had been trying to resolve the issue for 17 years and it was time to try something new. Mr. Gibson commented on the honest character of Council Member Ed Dennis.

Craig Pavich, a resident, said that raising taxes to pay for maintenance seemed like double taxation for those paying the park fee. He liked parks but hated being a neighbor to the City. He was motivated to purchase the property simply to get rid of the City as a neighbor.

Nicole Westcott, a resident, was ashamed of the City for making the residents deal with this problem for so long. She preferred the open space but she hated that the City was not taking care of it. She wanted to resolve the issue.

Kyle Pettit, a resident, was opposed to the proposal and said that he would prefer another solution be found. He urged the Council to deny the request and asked the Council to place a six-month moratorium on petitions such as this one. He noted that the trails in Wimbledon were used by students going to school.

Brent Wallace, a resident, agreed that this was a viable route for children to get to school. He also agreed that the City should be maintaining the property so that it did not become a fire hazard. Trails were a public safety issue.

Julia Nielson, a resident, said that she and her kids used the trails every day. She did not feel like the area was as bad as some people were making it out to be. She felt that many people who signed the petition had done so out of sheer exhaustion and peer pressure. Ms. Nielson suggested putting together a neighborhood committee to clean up the area, or recruit volunteers.

Grant Chandler, a resident, did not want to wait around for a solution that may never come. He felt the best solution was to allow the residents to take care of the property. He also noted that State Law outlines safe travel guidelines for students and the path was not on the list. He did not feel that it was necessary to maintain the trail because it was not used that often.

Malina Parkriss, a resident, spoke about her experience on the committee to get a cemetery and a lot of that was done with volunteers. She suggested doing the same thing with the problem being discussed. They could put together a committee and have volunteers help maintain the property. She suggested that they all quit bellyaching and get to work.

Kye Tanner, a resident, said that everyone agrees that there was a problem, even if they did not agree on the solution. He liked the idea of keeping the trails but was unsure if it was plausible. He supported selling the property.

Mike Jepson, a resident, expressed his frustration about the entire meeting. The residents had spent thousands of dollars to fix what the City had done. He appreciated the comments from the neighbors and their efforts to make a change.

Mayor Mann closed the public hearing at 10:27 PM

Council Member Scott L. Smith appreciated the residents’ comments. He felt that the only way to maintain the trails in the way the residents want would be to find the funding. The proposal may not be the best option but it was an option to resolve the long-standing problem. He noted that staff was hardworking and
did everything they could with the budget they had. He did not blame staff for the maintenance issues. He supported the proposed resolution.

Council Member Scott L. Smith MOVED that the residents of Wimbleton subdivision have met all the requirements required by the Highland City Municipal Code 12.30 and 12.32. Move to approve Resolution R-2018-27 a resolution of Highland City Utah designating open space property for disposal in the Wimbleton subdivision with the following stipulations.

1. The cost should be determined by a qualified real-estate appraiser and approved by the City Administrator and the residents of Wimbleton subdivision.

2. The property owner adjacent to the sewer line easement shall be allowed to purchase the property within the sewer line easements subject to all limitations and restrictions as associated with the easement including the right for the City to inspect the easement when requested.

3. Leave all detention basins intact with ownership retained by Highland City but allow the adjacent property owner to purchase and fence the surrounding property around the detention basin with a monument installed, flush with the ground, adjacent to the inlet pipe through the detention basin with the following quotation: “This detention basin is owned by Highland City and cannot be modified or removed.”

4. Property owners adjacent to the detention basin also agree to maintain the detention basins with grass and will not be allowed to put in structures or obstructions within the detention basin.

5. All property owners adjacent to the Lehi Water Company ditch accept the easement with all its limitations and restrictions.

6. The property owners agree to discontinue using and cap all City water lines associated with the property disposed.

7. The property owners adjacent to the trails disposed of in the Lehi Water Company ditch assume all costs associated with improvements associated with the ditch and removing the trails disposed.

8. The City agrees to finance the purchase for a period of two to four years depending on the purchase price and consider a hardship financing option.

9. The Wimbleton subdivision shall be allowed to use the purchase proceeds to improve the City parks and trails in that subdivision.

10. The purchase price shall include the first right of refusal from all adjacent property owners within the subdivision.

11. All selling costs shall be shared equally between the City and property owners.

12. The City shall repair a sink hole directly south of Lot 9 prior to the purchase.

Council Member Ed Dennis SECONDED the motion.

Council Member Brian Braithwaite said that he had been on the Council the longest and he carried the biggest blame for not resolving the issue before. He apologized for the way the residents had been treated. As a Council Member, he had tried to address what was most important to the City, and this had made its way to the bottom of the financial priorities list. He agreed that staff was doing the best they could with the funding they had. Most of the residents in Highland were conservative and they did not like bonding or increasing taxes. Council Member Braithwaite expressed his concerns with the proposal, most importantly the suggestions of City financing. He was concerned that the City did not have proper recourse for those that did not pay.
City Attorney Tim Merrill said that the City did not legally enforce any default. When someone defaults on a loan, the City could take them to court and collect a judgement, but it was possible that the City would not get any money from them if they were not collectable. He suggested that they secure the financing with real property as collateral.

Council Member Kurt Ostler suggested setting up an escrow account. Instead of transferring the title at the time of purchase, they would put it in escrow for 24-36 months. Council Member Braithwaite did not feel that would solve the issue. He would rather tie the financing to the property owner. City Attorney Tim Merrill said that the only way to secure payment would be to do so through the primary residence, such as a lien.

Council Member Braithwaite addressed his concerns regarding the sewer access. The City would get a lot of pushback from residents when the City accesses their property for emergency situations. They need to have that access. City Engineer Todd Trane said that staff would prefer that the City retain ownership of all utility easement.

There was a discussion regarding the detention areas in the neighborhood, which were in place to retain water in the case of a 50- or 100-year flood. Council Member Scott L. Smith said that there was nothing in the neighborhood’s request that suggested the detention areas would be altered or removed. Staff was concerned about residents installing fencing in these areas, because it would inhibit the City’s ability to access the detention areas.

City Engineer Todd Trane said that he would like to see the property sold to the residents, if it made sense to the residents and the City, but there were issues with the property on the east side of the ditch. From an engineering standpoint, he did not see how they could sell that part of the property. Council Member Ed Dennis said that the residents were prohibited from fencing the property within the easement around the ditch. City Engineer Todd Trane noted that the City was working toward the abandonment of the ditch, and all ditches in the City.

Council Member Braithwaite reiterated that he was not in favor of City financing and the sewer line access needs to be there. He also was concerned with the proposed price for the property. He asked if the Council was ready to move forward with the proposed price.

Council Member Ed Dennis said that the neighborhood had spent years trying to get this resolution to the City Council and postponing it would be an unwanted delay. Part of the approval of the resolution would be for the subdivision to present factual documentation to support a different price. He would prefer to make a motion contingent upon the Council accepting whatever appraisal information the neighborhood could provide. He wanted an appraiser to physically come to the property for an appropriate assessment of the value.

Council Member Scott L. Smith asked if Council Member Ed Dennis wanted to make that an amendment to the motion, and he answered affirmatively. Council Member Smith seconded the amendment.

City Administrator Nathan Crane briefly addressed the sink hole and said that it may be very costly for the City to adequately repair it.

Council Member Kurt Ostler was fine with allowing another appraiser to assess the property, but the cost should be agreed upon by the City and the neighborhood. They discussed whether that would have to come back before the Council during an open or closed session. The sewer access issue was a concern, and the residents should not be allowed to fence the detention area. He was also not comfortable with City
financing. He also felt that the open space feel of the community was desirable, and the trails should remain if they were being used.

City Administrator Nathan Crane reported that Council Member Tim Irwin had to disconnect to address an emergency. There was a discussion regarding whether to continue the item.

Council Member Scott L. Smith Moved the Question.

Council Member Scott L. Smith MOVED that the residents of Wimbleton subdivision have met all the requirements required by the Highland City Municipal Code 12.30 and 12.32. Move to approve Resolution R-2018-27 a resolution of Highland City Utah designating open space property for disposal in the Wimbleton subdivision with the following stipulations.
1. The cost should be determined by a qualified real estate appraiser and approved by the City Administrator and the residents of Wimbleton subdivision.
2. The property owner adjacent to the sewer line easement shall be allowed to purchase the property within the sewer line easements subject to all limitations and restrictions as associated with the easement including the right for the City to inspect the easement when requested.
3. Leave all detention basins intact with ownership retained by Highland City but allow the adjacent property owner to purchase and fence the surrounding property around the detention basin with a monument installed flush with the ground adjacent to the inlet pipe with the following quotation: “This detention basin is owned by Highland City and cannot be modified or removed.”
4. Property owners adjacent to the detention basin also agree to maintain the detention basins with grass and will not be allowed to put in structures or obstructions within the detention basin.
5. All property owners adjacent to the Lehi Water Company ditch accept the easement with all its limitations and restrictions.
6. The property owners agree to discontinue using and cap all City water lines associated with the property disposed.
7. The property owners adjacent to the trails disposed of in the Lehi Water Company ditch assume all costs associated with improvements associated with the ditch and removing the trails disposed.
8. The City agrees to finance the purchase for a period of two to four years depending on the purchase price and consider a hardship financing option.
9. The Wimbleton subdivision shall be allowed to use the purchase proceeds to improve the City parks and trails in that subdivision.
10. The purchase price shall include the first right of refusal from all adjacent property owners within the subdivision.
11. All selling costs shall be shared equally between the City and property owners.
12. The City shall repair a sink hole directly south of lot 9 prior to the purchase.
13. The price shall be contingent upon an appraisal that is acceptable to residents and City Council

Council Member Ed Dennis SECONDED the motion.

The vote was recorded as follows:
Council Member Brian Braithwaite No
Council Member Ed Dennis Yes
Council Member Tim Irwin absent
Council Member Kurt Ostler No
Council Member Scott L. Smith    Yes
Mayor Rod Mann                  No

The motion failed.

NOTE: Council Member Ed Dennis was excused at 11:33 PM.

The Council took a brief recess at 11:34 PM and reconvened at 11:47 PM. Mayor Mann noted that there was now only three Council Members present, so votes needed to be unanimous for any motions to pass. He requested that Item 8 and the Closed Session be continued. Council agreed.

7. PUBLIC HEARING/ACTION: REZONE FROM R-1-20 TO PROFESSIONAL OFFICE (P.O.) ZONE

Planner Tara Tannahill presented the staff report regarding a request from Eternal Springs to rezone property from R-1-20 to PO. The applicant had requested similar changes to the property in 2013 and 2016, but both of those requests were denied. The current proposal was for an 8,400 square foot building that meets all setbacks of the PO Zone. The maximum height of the zone was 35 feet, which was the same as a two-story residential home. The Planning Commission requested setbacks of 80 feet from the east side on the lower floor, and 100 feet for the second story. She presented the four stipulations suggested by the Planning Commission. There was a neighborhood meeting and the residents expressed their concerns with property values, dumpster locations, and the use.

Mayor Mann didn’t like the term “as far as possible” because it wasn’t specific enough. Council Member Brian Braithwaite agreed. There was a discussion regarding the potential location of the dumpster, and it was noted that this would be better addressed during the site plan process.

Mayor Mann opened the public hearing at 11:58 PM and called for any citizens who would like to speak on the item to come to the podium and state their name for the record.

Citizen Comments:

Wade Hadlock, a resident, liked the commercial use that was proposed now better than the previous applications, and he was not opposed to the rezone request. He was concerned about the effect this would have on residential home values. Mr. Hadlock said that there was a City trail behind this lot, and he wanted to ensure that this was left open. It was used quite frequently by students getting to the high school. He was concerned that the trail and open space would be fenced off.

There was some discussion and it was determined that the development would not negatively impact the trail.

Mayor Mann closed the public hearing at 12:02 AM

Greg Neild, the applicant, said that he had pushed the development to the north and put parking to the south, and they pushed the second story as far west as they could. He noted that this was just a concept plan and it hadn’t been engineered yet.

The general consensus among the Council was in favor of the building design.
Council Member Brian Braithwaite MOVED that the City Council approve that the property be rezoned from R-1-40 to Professional Office (P.O.) zone with the stipulations and recommendations from the Planning Commission and modify stipulation number three to read that the dumpster will be no closer than halfway between the east and west property lines.
Council Member Scott L. Smith SECONDED the motion.

Stipulations:
1. The building shall not exceed a total of 8,400 square feet.
2. The building setback is at least 80 feet from the rear property line and no second story shall be closer than 100 feet from the rear property line.
3. The dumpster will be no closer than halfway between the east and west property line.
4. The number of parking stalls for the assisted living and the office space be reviewed as part of the site plan and conditional use permit review.

The vote was recorded as follows:
Council Member Brian Braithwaite  Yes
Council Member Ed Dennis        absent
Council Member Tim Irwin         absent
Council Member Kurt Ostler       Yes
Council Member Scott L. Smith    Yes

The motion passed.

8. ACTION: ETHICS COMMISSION INTERLOCAL AGREEMENT

The item was continued.

9. ACTION: ACCEPTANCE OF A PROPERTY DONATION FROM CLINT MARTIN

City Administrator Nathan Crane explained that Clint Martin wanted to donate approximately 13.33 acres of land adjacent to the Cedar Hills Golf Course. The property did not have frontage on a road, which means access was problematic.

Clint Martin, the applicant, said that this would be a conservation contribution. The purpose of donating the land was so that the City could keep it as open space. The property would be donated in its entirety with all taxes paid and current through the end of 2018.

The Council thanked Mr. Martin for the donation.

Council Member Brian Braithwaite MOVED that the Council accept the generous donation from Clint Martin to the City for the property identified for 13.33 acres.
Council Member Kurt Ostler SECONDED the motion.

The vote was recorded as follows:
Council Member Brian Braithwaite  Yes
Council Member Ed Dennis        absent
Council Member Tim Irwin         absent
Council Member Kurt Ostler       Yes
Council Member Scott L. Smith    Yes
The motion passed.

10. FUTURE MEETINGS
   a. Future Meetings
      • December 11, Planning Commission Meeting, 7:00 pm, City Hall
      • January 8, City Council Meeting, 7:00 pm, City Hall

11. CLOSED SESSION – CONTINUED
   The closed session was continued.

ADJOURNMENT

Council Member Brian Braithwaite MOVED to adjourn the regular meeting and Council Member Kurt Ostler SECONDED the motion. All voted yes and the motion passed unanimously.

The meeting adjourned at 12:16 AM.

I, Cindy Quick, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on December 4, 2018. This document constitutes the official minutes for the Highland City Council Meeting.

Cindy Quick, CMC
City Recorder
SPECIAL CITY COUNCIL MINUTES
Monday, December 17, 2018

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

PRESIDING: Mayor Rod Mann

COUNCIL MEMBERS PRESENT: Brian Braithwaite, Ed Dennis, Tim Irwin, and Scott L. Smith (via phone) Kurt Ostler

CITY STAFF PRESENT: Assistant City Administrator Erin Wells, and City Recorder Cindy Quick

OTHERS: Devirl Barfuss, John Dougal, and Kent Millington (via phone)

The meeting was called to order by Mayor Rod Mann as a special session at 6:15 p.m. 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 Devirl Barfuss.

6:15 P.M. SPECIAL SESSION (CITY COUNCIL CHAMBERS)
Call to Order – Mayor Rod Mann

1. ACTION/RESOLUTION: 4TH QUARTER CENT SALES TAX AND CURRENT REVENUE PROJECTIONS
City Council will consider approving a resolution asking the County to pass the ¼ cent sales tax. Council will take appropriate action.

Assistant City Administrator Erin Wells oriented the Council with the resolution for a quarter cent sales tax option. She explained that the County Commissioners would vote on whether to impose the tax county wide. The tax would be used to fund transportation infrastructure and operations projects. It would raise a little of 22 million dollars a year. As someone makes a purchase it would be one cent on $4.00 purchase or 25 cents on $100 purchase. The sales tax came from a bill in legislature. There were options in the bill.

The first option was that the county would enact the tax by next June 30, 2019. Any proceeds collected prior to that being enacted can be kept by the County and could be used to pay down debt or fund regional projects. Beginning July 1, the funds would be split 40/40/20. Cities would receive 40%, UTA would receive 40% and Utah County would receive 20%. Highland would receive $200,000 SL, Davis County and Weber County have already implemented the tax. There is an interlocal agreement between UT Co and UTA saying they have to use the portion they receive to pay down the debt incurred for the bus rapid transit project and then UTA will spend funds on UT Co projects.
The second option was if they don’t act or they vote it down, June 30, 2020 cities can do it themselves and the split would be 50% to cities and 50% to UTA. 250,000 would come to Highland. The County could then enact the tax but cities maintain the 50/50 split. The Interlocal agreement would not apply.

Third option was if neither the County or City enacts the tax they would lose the ability to do so.

She then explained that one County Commissioner wants to put the tax on the 2019 ballot. One Commissioner supports the tax and the third Commissioner wanted cities to weigh in. The County and MAG have identified projects that could be funded. If County does enact the tax Highland could use the funds for transit related projects including trails, sidewalks and roads. The City could also adapt the road fee or help us with the east west connector.

She explained the council would be voting for the resolution that was updated with feedback received from Council and distributed today.

Council Member Tim Irwin asked if there was a sunset date? The response was that there was none. He then asked John Dougall to explain what option he would choose.

Mr. Dougall felt option 1 was the best of the three scenarios.

Council Member Irwin was uncertain whether or not offering their support for any of the options would change the way the State would use the tax.

Mr. Dougall said technically that was correct but politically it would make it harder for them to raise the sales tax after that point.

Council Member Irwin still felt uncertain about the outcome. Mr. Dougall reiterated that if the Council chose not to act, the legislature would and would be able to keep the money. If you act at least some of the money would benefit the residents.

Council Member Scott L. Smith mentioned that a year ago there was a similar proposition that was defeated. He wondered how the option differed.

The Mayor explained that it was defeated however, the difference was the interlocal agreement and that the state offered three options.

Council Member Smith then asked if the problems in UTA have been cleaned up.

Mr. Dougall said no there was a possibility it could be cleaned up with the new structure. He would be actively watching. He explained that they were trying to put a service level agreement in place. What services would be provided in the County, how is that success measured, and how can they shuffle the services? He felt that was a good step.

Council Member Tim Irwin asked what would happen if they encouraged the County to implement the tax and they do implement it and then they decide that they need more money and raise the tax even higher. The response was that would be out of our control. He continued that he could see positives but he was not certain the positives would outweigh a formidable tax for the people of Utah County.
John one way or another the legislature wants to impose a tax to give money to UTA. That should be a given assumption. He felt that paying down debt aggressively would be good for UTA. He said some bonds could go on for about 40 years. However, UDOT would not go past 15 years. Paying down debt is a good thing.

Mayor agreed. He suggested that for 10 years the money would be put to a good purpose and after we could have some influence.

Council Member Ed Dennis noted that one County Commissioner wanted to place it on the ballot. Why would we override a ballot initiative? He did not feel they should be overriding that vote.

Mayor explained the tax option was a different scenario. There were three options. Putting it on the ballot means adding nine months before getting a return and prolongs the debt. He reminded the Council they should decide what was best for Highland and the County. Highland would receive funds sooner.

Council Member Dennis felt that he should not change it when it was defeated quite soundly. He believed no one wanted a tax increase. He could see that it could benefit everyone. However, he was not certain it was a good choice. He felt there was time to have it go back to the voters.

Council Member Brian Braithwaite agreed with Mr. Dougall’s statement was accurate that the state is suggesting we either use the tax or they will. He would rather have the option of benefiting Highland. He felt it was the best scenario they had. He supports the option because it was not the same as what was originally voted on.

Kent Millington offered a UTA prospective. He explained that he was on a task force for nine months that had a conservative effort to make changes with the funds that were made available to UTA. There was a strong effort to make the change but it had only been implemented for two months. Having served on the UTA Board a decade ago, he was aware of problems with accounting and those problems will receive significant attention. He confirmed that changes were being made and they were making efforts to do better for the public.

Council Member Scott L. Smith voiced being uncomfortable with voting on something that has previously been defeated. He felt it should be put to a vote of the people.

Council Member Ed Dennis wondered if the tax did go on the ballot would we lose option one. The response was no that option one would still be viable.

Assistant City Administrator Erin Wells explained that the County has until June 30, 2020 for cities to enact the tax themselves.

Council Member Dennis felt the window of opportunity to include this on a ballot may even incentivize the County.

Council Member Brian Braithwaite didn’t want to give county more money until they had proved that changes were implemented. He felt it should be based on results. He did not like option two with the 50/50 split and no ability to give it money to the County.

Council Member Dennis asked for clarification that option one would still be in place through the election next fall. Council Member Braithwaite confirmed it would still be in place.

Council Member Kurt Ostler asked for input on why he would not want to have this put on the ballot in 2019.
Council Member Braithwaite was concerned that the communication would not be handled well enough to define the options clearly. He did not want to go with option three and would prefer option one or two. He explained that it would be difficult to vote against the residents if communication was not done properly.

Mayor Mann asked if any of the Council wanted to modify the resolution. There was no response.

Council Member Kurt Ostler MOVED to approve Resolution No. R-2018-27 supporting and encouraging Utah County Commission to implement the One Quarter Cent Sales Tax option.
Council Member Brian Braithwaite SECONDED the motion.

The vote was recorded as follows:

Council Member Brian Braithwaite  Yes
Council Member Ed Dennis  No  (because he did not want to override the vote of the people)
Council Member Tim Irwin  No
Council Member Kurt Ostler  Yes
Council Member Scott L. Smith  No

The motion failed 3:2

Council Member Kurt Ostler asked if there were any other motions that the Council would like to propose.

Mayor Mann then suggested that they could revise the motion to put the vote on the ballot in the fall. He suggested that it could be changed to read, now therefore be it resolved that Highland City Council hereby supports and encourages the Utah County Commissioners to put the question of a One Quarter Cent Sales Tax for Transit and Roadway Maintenance on the November 2019 ballot.

Council Member Kurt Ostler MOVED to approve Resolution No. R-2018-27 supporting and encouraging the Utah County Commission to implement a ballot initiative to be voted on in November 2019 concerning the One Quarter Cent Sales Tax option.
Council Member Ed Dennis SECONDED the motion.

Council Member Brian Braithwaite asked for clarification that they were supporting the option or were they placing it on the ballot.

Council Member Kurt Ostler reiterated that the motion was to place the option on the ballot.

Mayor Mann asked if Council Member Brian Braithwaite was asking to amend the motion and include a statement that Highland City is in support of the One Quarter Cent Sales Tax option.

Council Member Brian Braithwaite explained that he was in support because the state had chosen to take things away and they also had the UTA agreement directing the funds. He felt with those two pieces he was in support of it.

Council Member Scott L. Smith felt that the option should go to the vote of the people and the City should not say whether or not they support it.

Council Member Brian Braithwaite clarified that any time something goes to the vote of the people then City Council should provide a reason of why they are putting it to a vote. He felt they should let them know what their position was so they can provide feedback. Mayor Mann felt it might be easier to have that discussion when everyone was present. He felt they could state their support or not if it goes to the ballot. Council Member Braithwaite was fine with his suggestion.
Council Member Tim Irwin thought it would be nice to know what the elected officials wanted. He felt that putting it on the ballot would not accomplish anything except allowing the majority to vote. He questioned what the role of government was and whether or not it was to allow public transportation from UTA? He did not feel it was. He felt that they should make the best possible decision that that could make. He felt the state would do what they needed to do as well.

Vote on new motion

Council Member Kurt Ostler MOVED to approve Resolution No. R-2018-27 supporting and encouraging the Utah County Commission to implement a ballot initiative to be voted on in November 2019 concerning the One Quarter Cent Sales Tax option.
Council Member Ed Dennis SECONDED the motion.

The vote was recorded as follows:
Council Member Brian Braithwaite    Yes
Council Member Ed Dennis           Yes
Council Member Tim Irwin           No
Council Member Kurt Ostler         Yes
Council Member Scott L. Smith      No

The motion passed 3:2

Council Member Tim Irwin thanked them for putting the meeting together and allowing them to discuss the option. Council Members and the Mayor wished everyone a Merry Christmas!

**ADJOURNMENT**

Mayor Rod Mann called for a motion to adjourn.

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

The meeting adjourned at 7:02 PM.

I, Cindy Quick, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on December 17, 2018. This document constitutes the official minutes for the Highland City Council Meeting.

Cindy Quick, CMC
City Recorder
DATE: January 8, 2019
TO: City Council
FROM: Tara Tannahill
       Planner and GIS Analyst
SUBJECT: Preliminary/Final Plat Approval for Petra Place, a 3-lot subdivision. The property is approximately 2.47 acres and is located at 11144 N 5500 W. Administrative

STAFF RECOMMENDATION:
The City Council should hold a public hearing, accept the findings and recommend approval subject to the recommendations of Planning Commission.

BACKGROUND:
The property is approximately 2.47 acres and all three lots are currently part of the Stoneridge Subdivision.

The property is designated as Low Density Residential on the General Plan Land Use Map.

The underlying subdivision, Stoneridge, was recorded in 1976 with Utah County. The subdivision currently shows mixed zoning with R-1-40 on the east side of 5500 West and non-conforming R-1-20 on the west side of 5500 West. The R-1-40 zone allows for one home per 40,000 square feet of land within the development. The minimum lot width is 130 feet.

In 1983 a previous owner of lot number 15 in the Stoneridge Subdivision did an illegal subdivision and split the lot into two parcels. The newly created northern portion of the lot was then split again into two parcels. This created a total of three (3) lots on lot number 15 in the Stoneridge Subdivision. The north-eastern portion of the lot was sold to the owner of lot number 17, while the north-western lot was retained by the owner of lot number 15.

The north-western lot does not have enough frontage to build a single-family residential home. Clynn and Nianne Young are taking a portion of lot number 16 to get the allowed frontage and make the lot a legal lot.

This will not disqualify Stoneridge Subdivisions density allotment.
SUMMARY OF THE REQUEST:
1. The applicant is requesting approval of a 3-lot subdivision for the purpose of being able to construct a single family residential home on the proposed lot #2.

2. Access to the site will be from 5500 West and 11200 North.

CITIZEN PARTICIPATION:
Notice of the November 27, 2018 Development Review Committee meeting was mailed to all property owners within 500 feet of the proposed site on November 13, 2018. There were no residents that attended that meeting. There were two written letters received that were not in favor of the 3-lot subdivision (Attachment 3).

Notice of the Planning Commission meeting was published in the Daily Herald on November 25, 2018 and posted on the state website November 21, 2018. Notification of the public hearing associated with this meeting was mailed to all property owners within 500 feet of the proposed site on November 26, 2018 for Planning Commission and December 20, 2018 for City Council.

Public notification of the City Council meeting was not required.

ANALYSIS:
- The General Plan designation for this property is Low Density Residential. The surrounding properties are zoned R-1-40 and non-conforming R-1-20. The proposed subdivision is in conformance with the General Plan and compatible with the surrounding uses.
- Access to the site will be from 5500 West and 11200 North.
- The standard ten (10) feet public utility easements have been included on the plat. There is a five (5) foot utility drainage & irrigation easement on lots 2 and 3.
- The proposal meets all criteria for a 3-lot subdivision within the R-1-40 zone.
- The 3-lot subdivision also meets the R-1-40 density allotment with the Stoneridge subdivision.

CONCLUSION:
With the proposed stipulations, the proposed Preliminary/Final Plat appears to meet the required findings for approval.

PLANNING COMMISSION ACTION:
The Planning Commission held a public meeting on December 11, 2018. There were no comments from the public regarding the proposal. The Commission voted unanimously to recommend approval of the final plat subject to the following stipulations:
1. The recorded plat conforms to the final plat turned in on October 17, 2018 and drawing dated August 31, 2017 except as modified by these stipulations.
2. All public improvements shall be installed as required by the City Engineer.
3. The civil construction plans shall meet all requirements as determined by the City Engineer.

**RECOMMENDATION AND PROPOSED MOTION:**
Staff recommends that the City Council APPROVE the final plat subject to the three stipulations recommended by the Planning Commission.

**ALTERNATIVE MOTION:**
I move that the City Council DENY case FP-18-03, a request for a final plat approval for Clyn & Nianne Young based on the following findings: (The Council will need to draft appropriate findings).

**FISCAL IMPACT:**
This action will not have a financial impact on this fiscal year’s budget expenditures.

**ATTACHMENTS:**
1. Stoneridge Illegal Subdivision Plat
2. Vicinity Map
3. Letters from Residents
4. Proposed Subdivision
Illegal Subdivision Marking
I strongly disagree with the 3 lot subdivision on the property located at 11144 N 5500 W in Highland Utah. Additionally traffic, water uses, along with many other concerns.

Becky DeMunbrun
November 19, 2018

Tara Tannahill
Community Development Office
For Highland City
5400 West Civic Center Drive - Suite 1
Highland, UT 84003

Dear Tara/ Planning & Zoning Commission:

I received your letter of November 13, 2018 concerning the Clyn L. Young Subdivision.

Since I don’t drive anymore and will only be coming to the meetings if I can get a ride, maybe I could write a note to express my thoughts.

The existing houses in this proposed development already belong to Stoneridge Subdivision that has existed for many years. I don’t see the necessity for creating a new subdivision. However, if this has to be the case, then I would rather see the three existing homes on the northeast corner of Stoneridge become the new subdivision, rather than to leave one lot standing alone separated from the rest of us by Clyn L. Young Subdivision.

I’m wondering if the vacant property behind those lots could be developed within the density guidelines of the city?

Thank you for considering my thoughts and question.

Sincerely,

[Signature]

Marie C. Rasmussen
CITY COUNCIL AGENDA REPORT
ITEM #4

DATE: January 8, 2019
TO: Honorable Mayor and Members of the City Council
FROM: Erin Wells, Assistant City Administrator
SUBJECT: PUBLIC HEARING/RESOLUTION - Updating the Pressurized Irrigation and Storm Drain Rates for Non-Residential Users

STAFF RECOMMENDATION:
Approve updated utility rates for non-residential use to:
  - PI base rate - $20.12
  - PI square footage rate - $0.000664 per square foot of permeable surface
  - Storm drain square footage rate - $0.00136 per square foot of non-permeable surface

BACKGROUND:
Staff recently conducted an audit of our PI and storm drain rates for non-commercial users. Our current adopted fee schedule gives no distinction to non-residential customers for PI and as such they should pay $20.12 base and $0.000664 per square foot of their entire property. It does not matter how much of their lot is landscaped or is made of impervious surface (parking lots, buildings, sidewalks, etc.). For storm drain, the current fee schedule states commercial customers pay $0.00136 per square foot of the parking lot. The structure of these fees result in us billing the customer twice for their parking lot: once for PI and once for storm drain. Many older commercial entities are being billed this way.

In contrast, most new entities, such as CVS, are being billed for PI based on the square footage of their permeable surface (grass or other landscaping) and their storm drain rate is based off the square footage of their non-permeable surface. Staff believes this method to be more equitable.

Within the two groups of older and newer non-residential properties, there also appears to be inconsistencies such as whether xeriscape areas were included in the PI calculation or the building square footage was included in the storm drain calculation.

As there is inconsistency and inequity in our current billing of non-residential entities, staff is proposing the following rates for all non-residential entities including commercial, schools, and churches:
  - PI base rate - $20.12
• PI square footage rate - $0.000664 per square foot of permeable surface
• Storm drain square footage rate - $0.00136 per square foot of non-permeable surface

Please note that these new rates give no distinction to xeriscape areas when considering the PI rate. While this is something Council has discussed, staff felt that a potential change would be more appropriate to make when an updated, in depth utility rate study occurs for 2021, as this will also likely impact residential customers and have a large impact on the PI fund. (The first study was finished in 2016 and Council asked staff to update it every 5 years).

If Council decides to pass the proposed rates, staff plans on sending letters to all non-residential utility customers explaining the change and the impact it will have on them. Customers will then have time to ask questions and staff can make necessary adjustments before the new rates go into effect for the February bill.

**FISCAL IMPACT:**

**Customers**

Of the 58 non-residential utility accounts in Highland, 24 are either Alpine School District (ASD) schools or are properties owned by the Church of Jesus Christ of Latter-day Saints (LDS). While the bills for some ASD properties and some LDS properties would increase, when looking at all the ASD and all the LDS properties in Highland, both entities would see a decrease in their total bill.

Of the remaining 34 non-residential utility accounts, 21 would see a decrease in their utility bill and 13 would see an increase. Of those 13, the increase ranges from $1.27 to $183.01 per month with 4 accounts seeing an increase of over $50 per month.

The final bill calculations may change slightly as the City does not have plans that included landscaping numbers for all entities and as such had to use aerial measurements. When we send out our explanatory letter, we will inform the customer of the numbers we have. If they can produce different numbers from a landscaping plan, those numbers will be used instead.

**Highland City**

Ultimately, this would mean a decrease to the PI fund of $26,891.52 per year or $11,204.80 for this fiscal year. The PI fund receives over $2.4 million in revenue every year. This change would only result in a 1.1% decrease and as such, staff is not concerned about its impact to the fund for the time being. That being said, this change and its impact should be re-examined during the next utility rate study.

The storm drain fund would see an increase of $17,853.96 per year or $7,439.15 for this fiscal year. This would result in a 3.4% increase in the total yearly revenue for the
$530,000 fund. Because of the purchase of the Vac truck this year, the Storm Drain fund will spend more than it brings in revenue. This increase will help offset that deficit.

**PROPOSED MOTION:**
I move that City Council approve resolution R-2019-01 updating the Pressurized Irrigation and Storm Drain Rates for Non-Residential Users.

**ATTACHMENTS:**
1. Fee Schedule Excerpt
2. Resolution R-2019-01
Miscellaneous copying .................................................. $0.15/printed page
Copies of reports ........................................................ $0.15/printed page
Electronic Copies (Tapes) of Meetings ......................... $30.00 per meeting
Interest charged on unpaid obligation due Highland City .................. 18% on unpaid balance

Utility Charges
All fees are billed monthly except for Miscellaneous category

Garbage & Recycling
Garbage Can ......................................................... $9.35
Additional Garbage Can(s) ......................................... $7.40
Recycling Can .......................................................... $4.45

Culinary Water
Residential
Base (0-5,999 gallons of water) .................................. $12.24
Overage (6,000-15,999 gallons of water) ....................... $0.78 per thousand gallons
Overage (16,000+ gallons of water) ......................... $2.04 per thousand gallons

Commercial
Base (0-5,999 gallons of water) ............................... $25.50
Overage (6,000+ gallons of water) ......................... $1.02 per thousand gallons

Churches and Schools
Base (0-5,999 gallons of water) ............................... $25.50
Overage (6,000+ gallons of water) ......................... $1.04 per thousand gallons

County Residents
Base (0-5,999 gallons of water) ............................... $12.24
Overage (6,000+ gallons of water) ......................... $0.77 per thousand gallons

Industrial
Base (0-5,999 gallons of water) ............................... $25.50
Overage (6,000+ gallons of water) ......................... $1.31 per thousand gallons

Stock Watering
Base (0-5,999 gallons of water) ............................... $12.24
Overage (6,000+ gallons of water) ......................... $0.78 per thousand gallons

10,000 rate
Base (0-5,999 gallons of water) ............................... $25.50
Overage (6,000+ gallons of water) ......................... $0.078 per thousand gallons

Pressurized Irrigation Water
Base ................................................................. $20.12
Square Footage Rate ................................................. $0.000664 per square foot of lot
Irrigation Water Purchase ......................................... $0.000814 per square foot of lot

Approved June 5, 2018
Sewer

Residential
Gallon rate for sewer is calculated once a year based on an average of culinary water consumption from October - April.
City Maintenance Base (9,999 gallons of water) ................................................................. $5.11
City Maintenance Overage (10,000+ gallons of water) ........................................ $0.34 per thousand gallons
Timpanogos Special Service District (TSSD) Base (9,999 gallons of water) ....................... $32.77
TSSD Overage (10,000+ gallons of water) ................................................................. $2.20 per thousand gallons

Businesses and Churches
Gallon rate for general commercial is calculated once a year in May based on an average of culinary water consumption from October - April. Gallon rate for car washes is calculated once a year in May based on an average monthly consumption for previous year.
City Maintenance Base (9,999 gallons of water) ................................................................. $6.20
City Maintenance Overage (10,000+ gallons of water) ........................................ $0.34 per thousand gallons
Timpanogos Special Service District (TSSD) Base (9,999 gallons of water) ....................... $39.95
TSSD Overage (10,000+ gallons of water) ................................................................. $2.20 per thousand gallons

Schools
Rate is calculated once a year in September based on student enrollment.
City Maintenance Base ............................................................................................................ $0.1163612 per student
Timpanogos Special Service District (TSSD) ............................................................... $0.6593838 per student

Storm Drain
Residential ............................................................................................................................. $6.97
Commercial .......................................................................................................................... $0.00136 per square foot of parking lot

Other
Open Space (As applicable for each property) ................................................................. $20.00
Transportation ...................................................................................................................... $18.50

Miscellaneous
Utility Sign-up Processing Fee ................................................................................................. $25.00
Late Fee ................................................................................................................................... 1.5%
Shut-off Fee ............................................................................................................................ $80.00
Flat Lid Upgrade ....................................................................................................................... $40.00

Notes
It is not intended by any fee schedule Resolution to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other resolutions, ordinances, or laws except to effect modification of the fees reflected above. The fees listed in the Consolidated Fee Schedule supersede present fees for services specified, but all fees not listed remain in effect. The most recent Resolution imposing a higher fee than is imposed or required by existing provisions, resolution, ordinance, or law, the provisions of that resolution shall control.
WHEREAS, the City provides pressurized irrigation and storm drain services for non-residential properties; and

WHEREAS, the Council believes that entities should pay an equitable and standard rate for the use of those utility services.

NOW, THEREFORE BE IT RESOLVED by Resolution of the Highland City Council, the rates for non-residential entities be as follows

- PI base rate - $20.12
- PI square footage rate - $0.000664 per square foot of permeable surface
- Storm drain square footage rate - $0.00136 per square foot of non-permeable surface

This resolution shall take effect on February 1, 2019.

PASSED by Highland City Council this 8th day of January, 2019.

HIGHLAND CITY, UTAH

_________________________________
Rodney W. Mann, Mayor

ATTEST:

_________________________________
Cindy Quick, City Recorder

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<th>COUNCILMEMBER</th>
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Adopt the proposed ordinance regulating small cell installation and maintenance in Highland City.

In the 2018 legislative session, the State of Utah adopted a new law (S.B. 189; currently §54-21-101 et. seq.) governing small cell wireless facilities that impacts the City’s ability to regulate “small cells.” Small cells are an emerging technology that facilitates 5G.

The proposed ordinance addresses the new provisions in state law and will allow for a smooth transition as providers seek to install and maintain small cell wireless facilities in the City.

FISCAL IMPACT:
Negligible. The amount the City can charge is regulated by the state. Currently, the annual rent to co-locate on a City pole is $50. The application fees for a permit are $250 and under.

PROPOSED MOTION:
I move that the City Council adopt a new ordinance regulating small cell facilities within Highland City.

ATTACHMENTS:
   1. Proposed Ordinance
ORDINANCE NO.

AN ORDINANCE ENACTING A NEW CHAPTER OF THE HIGHLAND MUNICIPAL CODE GOVERNING SMALL CELL FACILITIES; ALSO PROVIDING AN EFFECTIVE DATE AND SAVINGS CLAUSE.

WHEREAS, Title 10 Chapter 3 and §10-8-84 of the Utah Code authorizes the City Council to pass ordinances which are reasonably and appropriately related to the providing for the public health, safety, morals, convenience, order, prosperity, and general welfare of the City and its residents; and

WHEREAS, the City Council desires enact regulations pursuant to Utah Code §54-21-101, et. seq., governing small cell facilities constructed or maintained in City;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF HIGHLAND CITY, THAT CHAPTER 13.38 OF THE HIGHLAND MUNICIPAL CODE BE ENACTED AS FOLLOWS:

WIRELESS COMMUNICATION SERVICES

Sections:

Article I. Declaration of Findings and Intent—Scope of Ordinance

13.38.010 Findings regarding right-of-way.
13.38.020 Scope of ordinance.
13.38.030 Excluded activity.

Article II. Defined Terms

13.38.040 Definitions.

Article III. Wireless Franchise Required

13.38.050 Nonexclusive wireless franchise.
13.38.060 Every provider must obtain.
13.38.070 Nature of grant.
13.38.080 Current providers.
13.38.090 Nature of wireless franchise.
13.38.100 Regulatory approval needed.
13.38.110 Term.

Article IV. Compensation and Other Payments

13.38.120 Compensation.
13.38.130 Timing.
13.38.140 Fee statement and certification.
13.38.150  Future costs.
13.38.160  Taxes and assessments.
13.38.170  Interest on late payments.
13.38.180  No accord and satisfaction.
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Article I. Declaration of Findings and Intent—Scope of Ordinance

13.38.010 Findings regarding right-of-way.
A. Highland City finds that the right-of-way within the City:

1. Are critical to the travel and transport of persons and property in the business and social life of the City;

2. Are intended for public uses and must be managed and controlled consistent with that intent;

3. Can be partially occupied by the facilities of utilities and other public service entities delivering utility and public services rendered for profit to the enhancement of the health, welfare, and general economic well-being of the City and its citizens; and

4. Are a unique and physically limited resource requiring proper management to maximize the efficiency and to minimize the costs to the taxpayers of the foregoing uses and to minimize the inconvenience to and negative effects upon the public from such facilities construction, placement, relocation, and maintenance in the right-of-way.

B. Finding Regarding Compensation. The City finds the right to occupy portions of the right-of-way for limited times for the business of providing personal wireless services is a valuable use of a unique public resource that has been acquired and is maintained at great expense to the City and its taxpayers, and, therefore, the taxpayers of the City should receive fair and reasonable compensation for use of the right-of-way.

C. Finding Regarding Local Concern. The City finds that while wireless communication facilities are in part an extension of interstate commerce, their operations also involve rights-of-way, municipal franchising, and vital business and community services, which are of local concern.

D. Finding Regarding Promotion of Wireless Communication Services. The City finds that it is in the best interests of its taxpayers and citizens to promote the development of wireless communication services, on a nondiscriminatory basis, responsive to community and public interest, and to assure availability for municipal, educational and community services.

E. Findings Regarding Franchise Standards. The City finds that it is in the interests of the public to franchise and to establish standards for franchising providers in a manner that:

1. Fairly and reasonably compensates the City on a competitively neutral and nondiscriminatory basis as provided herein;

2. Encourages competition by establishing terms and conditions under which providers may use the right-of-way to serve the public;

3. Fully protects the public interests and the City from any harm that may flow from such commercial use of right-of-way;

4. Protects the police powers and right-of-way management authority of the City, in a manner consistent with federal and state law;
5. Otherwise protects the public interests in the development and use of the City’s infrastructure;

6. Protects the public’s investment in improvements in the right-of-way; and

7. Ensures that no barriers to entry of providers are created and that such franchising is accomplished in a manner that does not prohibit or have the effect of prohibiting personal wireless services, within the meaning of the Telecommunications Act of 1996 (“Act”) (P.L. No. 96-104).

F. Power to Manage Right-of-Way. The City adopts the wireless communication services ordinance codified in this chapter pursuant to its power to manage its rights-of-way, pursuant to common law, the Utah Constitution and statutory authority, and to receive fair and reasonable compensation for the use of right-of-way by providers as expressly set forth in federal and state law.

13.38.020 Scope of ordinance. The ordinance codified in this chapter shall provide the basic local framework for providers of wireless services and systems that require the use of the right-of-way, including providers of both the system and service, those providers of the system only, and those providers who do not build the system but who only provide services. The ordinance codified in this chapter shall apply to all future providers and to all providers in the City prior to the effective date of the ordinance codified in this chapter, whether operating with or without a wireless franchise as set forth herein.

13.38.030 Excluded activity. A. Cable TV. This chapter shall not apply to cable television operators or to open video system providers otherwise regulated.

B. Wireline Services. This chapter shall not apply to wireline service facilities.

Article II. Defined Terms

13.38.040 Definitions. For purposes of this chapter, the following terms, phrases, words, and their derivatives shall have the meanings set forth in this Section, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future tense, words in the single number include the plural number, words in the plural number include the singular. The words “shall” and “will” are mandatory, and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

“Antenna” is defined in Utah Code Ann. § 54-21-101(1), as amended.

“Applicable codes” is defined in Utah Code Ann. § 54-21-101(2), as amended.


“Applicant” is defined in Utah Code Ann. § 54-21-101(4), as amended.

“Application” is defined in Utah Code An.. § 54-21-101(5), as amended.
“Backhaul network” means the lines that connect a provider’s WCFs to one or more cellular telephone switching offices or long distance providers, or the public switched telephone network.

“City” means Highland City, Utah.

“Collocate” is defined in Utah Code Ann. § 54-21-101(11), as amended. Except as otherwise allowed by this chapter, the cumulative impact of colocation at a site is limited to no more than 6 cubic feet in volume for antennas and antenna arrays, and no more than 28 cubic feet in volume of associated equipment, whether deployed on the ground or on the structure itself.

“Construction costs” means all costs of constructing a system, including make ready costs, other than engineering fees, attorney’s or accountant’s fees, or other consulting fees.

“Control” or “controlling interest” means actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the system or of a provider. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person, or group of persons acting in concert, of more than 35% of any provider (which person or group of persons is hereinafter referred to as “controlling person”). “Control” or “controlling interest” as used herein may be held simultaneously by more than one person or group of persons.

“Distributed antenna system” or “DAS” means a network consisting of transceiver equipment at a central hub site to support multiple antenna locations throughout the desired coverage area.

“FAA” means the Federal Aviation Administration.

“FCC” means the Federal Communications Commission, or any successor thereto.

“Franchise” means the rights and obligations extended by the City to a provider to own, lease, construct, maintain, use or operate a wireless communication system in the right-of-way within the boundaries of the City. Any such authorization, in whatever form granted, shall not mean or include: (1) any other permit or authorization required for the privilege of transacting and carrying on a business within the City required by the ordinances and laws of the City; (2) any other permit, agreement or authorization required in connection with operations on right-of-way or public property including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the City or a private entity, or for excavating or performing other work in or along the right-of-way.

“Franchise agreement” means a contract entered into in accordance with the provisions of this chapter between the City and a provider that sets forth, subject to this chapter, the terms and conditions under which a wireless franchise will be exercised.

“In-strand antenna” means an antenna that is suspended by or along a wireline between utility poles and is not physically supported by any attachments to a base station, utility support structure, or tower. An in-strand antenna may not exceed 3 cubic feet in volume. For each in-strand antenna, its associated equipment, whether deployed on the ground or on the structure itself, may not be larger than 17 cubic feet in volume. In calculating equipment volume, the volume of power meters and vertical cable runs for the connection of power and other services shall be excluded. In-strand
antennas in the rights-of-way are exempt from the requirements of “telecommunications facilities”.

“Infrastructure provider” means a person providing to another, for the purpose of providing personal wireless services to customers, all or part of the necessary system which uses the right-of-way.

“Macrocell” means a wireless communication facility that provides radio frequency coverage served by a high power cell site (tower, antenna or mast). Generally, macro cell antennas are mounted on ground-based towers, rooftops and other existing structures, at a height that provides a clear view over the surrounding buildings and terrain. Macro cell facilities are typically greater than 3 cubic feet per antenna and typically cover large geographic areas with relatively high capacity and are capable of hosting multiple wireless service providers. For purposes of this chapter, a macrocell is anything other than a small cell or in-strand antenna. In addition to the requirements found in this chapter, a macrocell must comply with the applicable zoning and use requirements as a “telecommunications facility”.

“Micro wireless facility” is defined in Utah Code Ann. § 54-21-101(21).

“Ordinance” or “wireless ordinance” means the ordinance concerning the granting of wireless franchises in and by the City for the construction, ownership, operation, use or maintenance of a wireless communication system.

“Permit” means a right-of-way occupancy permit that gives a person or entity to perform the work and install, maintain, and operate a structure included in a right-of-way occupancy application has been approved by the City Engineer.

“Person” includes any individual, corporation, partnership, association, joint stock company, trust, or any other legal entity, but not the City.

“Personal wireless services facilities” has the same meaning as provided in Section 704 of the Act (47 U.S.C. Section 332(c)(7)(c)), which includes what is commonly known as cellular services.

“PSC” means the Public Service Commission, or any successor thereto.

“Right-of-way” is defined in Utah Code Ann. § 54-21-101(24), as amended.

“Site” means the location in the right-of-way of a wireless communication facility, a utility pole, or their associated equipment.

“Small wireless facility” is defined in Utah Code Ann. § 54-21-101(35), as amended. Small wireless facilities in the rights-of-way are exempt from the requirements of “telecommunications facilities”.

“Structure” means any pole, cabinet, box, antenna or other non-temporary structure that is installed within the right-of-way.

“Stealth design” means technology or installation methods that minimize the visual impact of wireless communication facilities by camouflaging, disguising, screening or blending into the
surrounding environment. Examples of stealth design include but are not limited to facilities disguised as trees (monopines), utility and light poles, and street furniture.

“Substantial modification” is defined in Utah Code Ann. § 54-21-101(26), as amended.

“Telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing (e.g., data, video, and voice), without change in the form or content of the information sent and received.

“Telecommunications service(s)” or “services” means any telecommunications or communications services provided by a provider within the City that the provider is authorized to provide under federal, state and local law, and any equipment and/or facilities required for and integrated with the services provided within the City, except that these terms do not include “cable service” as defined in the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 (47 U.S.C. Section 521, et seq.), and the Telecommunications Act of 1996.

“Telecommunications system” or “system” means all conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased, or used by a provider, located in the right-of-way and utilized in the provision of services, including fully digital or analog, voice, data and video imaging and other enhanced telecommunications services.

“Utility pole” or “pole” is defined in Utah Code Ann. § 54-21-101(28), as amended.

“Transmission equipment” means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

“Wire” means fiber optic telecommunications cable, wire, coaxial cable, or other transmission medium that may be used in lieu thereof for similar purposes.

“Wireless facility” or “WCF” is defined in Utah Code Ann. § 54-21-101(29).

“Wireless provider” or “provider” is defined in Utah Code Ann. § 54-21-101(31), as amended.

“Wireless service” is defined in Utah Code Ann. § 54-21-101(32), as amended.

“Wireless support structure” is defined in Utah Code Ann. § 54-2-101(34), as amended.

**Article III. Wireless Franchise Required**

**13.38.050 Nonexclusive wireless franchise.**
The City is empowered and authorized to issue nonexclusive wireless franchises governing the installation, construction, operation, use and maintenance of wireless system in the City’s right-of-way, in accordance with the provisions of this chapter. The wireless franchise is granted through a wireless franchise agreement entered into between the City and provider.
13.38.060 Every provider must obtain.  
Except to the extent preempted by federal or state law, every provider must obtain a wireless franchise prior to constructing, operating, leasing, or subleasing a wireless communication system or providing wireless service using the right-of-way. The fact that particular telecommunications systems may be used for multiple purposes does not obviate the need to obtain a franchise for other purposes. By way of illustration and not limitation, a cable operator of a cable system must obtain a cable franchise, and, should it intend to provide wireless services over the same system, must also obtain a wireless franchise.

13.38.070 Nature of grant.  
A wireless franchise shall not convey title, equitable or legal, in the right-of-way. A wireless franchise is only the right to occupy right-of-way on a nonexclusive basis for the limited purpose and for the limited period stated in the wireless franchise; the right may not be subdivided, assigned, or subleased. A wireless franchise does not excuse a provider from obtaining appropriate access or pole attachment agreements before collocating its system on the property of others, including the City’s property. This Section shall not be construed to prohibit a provider from leasing conduit to another provider, so long as the lessee has obtained a franchise.

13.38.080 Current providers.  
Except to the extent exempted by federal or state law, any provider acting without a wireless franchise on the effective date of the ordinance codified in this chapter shall request issuance of a wireless franchise from the City within 90 days of the effective date of the ordinance codified in this chapter. If such request is made, the provider may continue providing service during the course of negotiations.

13.38.090 Nature of wireless franchise.  
The wireless franchise granted by the City under the provisions of this chapter shall be a nonexclusive wireless franchise providing the right and consent to install, repair, maintain, remove and replace its system on, over and under the right-of-way in order to provide services.

13.38.100 Regulatory approval needed.  
Before offering or providing any services pursuant to the wireless franchise, a provider shall obtain any and all regulatory approvals, permits, authorizations or licenses for the offering or provision of such services from the appropriate federal, state and local authorities, if required, and shall submit to the City upon the written request of the City evidence of all such approvals, permits, authorizations or licenses.

13.38.110 Term.  
Each wireless franchise issued pursuant to this chapter shall have a term of 10 years and shall be granted in a nondiscriminatory manner.

Article IV. Compensation and Other Payments

13.38.120 Compensation.  
As fair and reasonable compensation for any wireless franchise granted pursuant to this chapter, a provider shall have the following obligations:
A. Application Fees. A provider shall pay the following application fees for the respective applications in accordance with Utah Code Ann. §54-21-503, as amended:

1. $100 for each small wireless facility;
2. $250 for each utility pole associated with a small wireless facility.
3. $1000 for each utility pole or WCF that is not permitted under Utah Code Ann. §54-21-204, as amended.

B. Right-of-Way Rate. A provider shall pay a right-of-way rate of the greater of 3.5% of all gross revenues related to the provider’s use of the City’s right-of-way for small wireless facilities or $250 annually for each small wireless facility in accordance with Utah Code Ann. §54-21-502(2). A provider does not have to pay this rate if it is subject to the municipal telecommunications license tax under Title 10, Part 4, Municipal Telecommunications License Tax Act.

C. Permit Fees. The provider shall also pay fees required for any permit necessary to install and maintain the proposed WCF or utility pole.

D. Authority Pole Collocation Rate. The City adopts the authority pole collocation rate of $50.00 per year, as established in Utah Code Ann. § 54-21-504, as amended.

13.38.130 Timing.
Unless otherwise agreed to in the wireless franchise agreement, all right-of-way rates shall be paid in accordance with Utah Code Ann. § 54-21-502, as amended.

13.38.140 Fee statement.
Provider may request a statement showing the manner in which the fee was calculated.

13.38.150 Future costs.
A provider shall pay to the City the reasonable costs and reasonable expenses that the City incurs for services (including but not limited to attorneys and other consultants) in connection with any renewal or provider-initiated renegotiation, transfer, amendment, or a wireless franchise; provided, however, that the parties shall agree upon a reasonable financial cap at the outset of negotiations.

13.38.160 Taxes and assessments.
To the extent taxes or other assessments are imposed by taxing authorities, other than the City on the use of the City property as a result of a provider’s use or occupation of the right-of-way, the provider shall be responsible for payment of its pro rata share of such taxes, payable annually unless otherwise required by the taxing authority. Such payments shall be in addition to any other fees payable pursuant to this chapter to the extent permitted by law.

13.38.170 Interest on late payments.
In the event that any payment is not actually received by the City on or before the applicable date fixed in the wireless franchise, interest thereon shall accrue from such date until received at the rate charged for delinquent state taxes. Nonpayment shall also constitute grounds to terminate a franchise agreement.
13.38.180 No accord and satisfaction.
Acceptance by the City of any rate or fee shall not be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such fee payment be construed as a release of any claim the City may have for additional sums payable.

13.38.190 Not in lieu of other taxes or fees.
A rate or fee payment is not a payment in lieu of any tax, fee or other assessment except as specifically provided in this chapter, or as required by applicable law. By way of example, and not limitation, excavation permit fees are not waived and remain applicable.

13.38.200 Continuing obligation and holdover.
In the event a provider continues to operate all or any part of the system after the term of the wireless franchise, such operator shall continue to comply with all applicable provisions of this chapter and the wireless franchise, including, without limitation, all compensation and other payment provisions throughout the period of such continued operation; provided, that any such continued operation shall in no way be construed as a renewal or other extension of the wireless franchise, nor as a limitation on the remedies, if any, available to the City as a result of such continued operation after the term, including, but not limited to, damages and restitution.

13.38.210 Costs of publication.
A provider shall assume any publication costs associated with its wireless franchise that may be required by law.

Article V. Wireless Franchise Applications

13.38.220 Wireless franchise application.
To obtain a wireless franchise to construct, own, maintain or provide services through any wireless system within the City’s right-of-way, or to obtain a renewal of a wireless franchise granted pursuant to this chapter, or to obtain the City approval of a transfer of a wireless franchise, an application must be filed with City.

13.38.230 Application criteria.
In making a determination as to an application filed pursuant to this chapter, the City may, but shall not be limited to, request the following from the provider:

A. A copy of the order from the PSC granting a certificate of convenience and necessity, if any is necessary for provider’s offering of wireless communication services within the state of Utah;

B. An annually renewed performance bond or letter of credit from a Utah-licensed financial institution in the amount of twenty-five thousand dollars to compensate the City for any damage caused by the provider to the City’s right-of-way or property during the term of the franchise agreement or the provider’s abandonment of WCFs within a year after the expiration or termination of the franchise agreement;

C. A copy of the provider’s FCC license or registration, if applicable;

D. An insurance certificate for the provider that lists the City as an additional insured and complies with the requirements of the franchise agreement;
13.38.240 Wireless franchise determination. The City, in its discretion, shall determine the award of any wireless franchise on the basis of these and other considerations relevant to the use of the right-of-way, without competitive bidding.

13.38.250 Incomplete application. The City may deny an applicant’s wireless franchise application for incompleteness if:

A. The application is incomplete; and

B. The City provided notice to the applicant that application was incomplete and provided with reasonable specificity the necessary information needed to complete the application; and

C. The provider did not provide the requested information within 30 days of the notice.

Article VI. Site Applications

13.38.260 Franchise and Permit necessary. Prior to the seeking approval of a site permit, the applicant must have a valid franchise agreement granted by applicable law.

A. A person or entity submitting an application for a site permit must submit the following information:

1. The location of the structure;

2. The specifications of the structure;

3. The construction drawings of the structure;

4. A scaled site plan clearly indicating the location, type, dimensions of the structure, the boundaries of the right-of-way, property ownership, adjacent roadways, existing above- and below-ground equipment, existing underground utility and wire lines, curbs and gutters, sidewalks, park strips, other physical features of the site, proposed bore pits, proposed means of access, setbacks from property lines and the nearest buildings, parking, utility runs and other information deemed by the City Engineer to be necessary to assess compliance with this chapter;

5. A to-scale drawing or photo simulation of the structure;

6. Identification of any other entity providing service to the structure in order to fulfill its intended use (for example, the entity providing backhaul services for a small wireless facility);

7. If the structure is being located on another’s structure, written authorization from the structure owner to allow the applicant to locate the applicant’s structure on the owner’s structure;

8. If the applicant is not providing the service the structure is constructed for, written confirmation from an authorized service provider that the applicant’s structure will be used by the service provider to provide such service.
9. For any right-of-way occupancy permit in which the application fee is not established elsewhere in the Code or in a franchise agreement, a person or entity submitting the right-of-way occupancy permit application must pay an application fee of $100 per structure.

B. A person or entity whose application is approved by the City Engineer and receives a permit from the City is authorized to perform the work in the approved application. A person or entity may not perform any work at any other location other than that included in the approved application.

C. The work authorized by the permit must be completed by the date listed on the permit, unless otherwise authorized by the City Engineer.

D. A person or entity with an approved permit remains obligated to receive any other required permissions or authorizations prior to performing the work approved by the permit. This may include, but is not limited to, an excavation permit or building permit.

E. A permit is not transferrable or assignable.

13.38.270 Site preference.
When small wireless facilities are to be constructed in the rights-of-way above ground, if allowed, the City’s order of preference to be followed by a provider, if feasible, is:

A. To install in-strand antennas;
B. To collocate on existing poles;
C. To collocate on replacement poles in the same or nearly the same location and with such heights as provided in this chapter or in the franchise; and lastly
D. To collocate on new poles.

13.38.280 Poles adjacent to residential properties.
In accordance with Utah Code Ann. § 54-21-103(6), as amended, a provider may not install a new utility pole in a right-of-way if the right-of-way is adjacent to a street or thoroughfare that is:

A. 60 feet wide or less, as depicted on the official plat records; and
B. adjacent to single-family residential lots, other multifamily residences, or undeveloped land that is designated for residential use by zoning or deed restrictions.

13.38.290 Height and size restrictions.
A. The height of a new or modified utility pole including a collocated WCF may not exceed 50 feet above the ground level.

B. For a utility pole existing on or before September 1, 2018, an antenna of a WCF may not extend more than 10 feet above the top of the utility pole.

C. A small wireless facility and its associated equipment may need exceed the dimensions set forth in Utah Code Ann. § 54-21-101(25), as amended.
13.38.300 Safety.
A WCF, small wireless facility, pole, cabinet, or other equipment may not:

A. Materially interfere with the safe operation of traffic control equipment;
B. Materially interfere with a sight line or clear zone for vehicular or pedestrian traffic;
C. Materially interfere with compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 et seq., or a similar federal or state standard regarding pedestrian access or movement;
D. Create a public health or safety hazard;
E. Obstruct or hinder the usual travel or public safety of the right-of-way; or
F. Violate any applicable law or legal obligation.

13.38.310 Equipment.
A. Due to the limited size of the City’s right-of-way, applicants shall be required to install any equipment associated with a small wireless facility according the following requirements to the extent operationally and technically feasible and to the extent permitted by law.

1. Existing utility poles. If a WCF is collocated on an existing utility pole, the WCF’s associated equipment may be installed in one of the following methods:
   a. Within a pole. Any equipment installed within a pole may not protrude from the pole except to the extent reasonably necessary to connect to power or a wireline.
   b. On a pole. Any equipment enclosure installed on a pole must:
      i. be flush with the pole;
      ii. painted to reasonably match the color of the pole;
      iii. may not exceed in width the diameter of the pole by more than 3 inches on either side;
      iv. may not allow the furthest point of the enclosure to extend more than 18 inches from the pole; and
      v. be installed flush with the grade or, alternatively, the lowest point may not be lower than 8 feet from the grade directly below the equipment enclosure.
   c. Underground. Any equipment installed underground shall be located in a park strip within the City’s right-of-way and shall be installed and maintained level with the surrounding grade.
   d. Private property. Any equipment installed on private property must provide written permission from the property owner allowing the applicant to locate facilities on the property. If equipment is placed in an enclosure, the enclosure shall be designed to blend in with existing surroundings, using architecturally compatible construction and colors,
and landscaping and shall be located as unobtrusively as possible consistent with the proper functioning of the WCF. Equipment placed on private property may be subject to zoning requirements.

2. Replacement utility poles. If a WCF is collocated on a replacement utility pole, the WCF’s associated equipment may be installed in the following manner:

   a. To the extent technologically feasible, a provider must install the WCF’s associated equipment within the replacement utility pole in accordance with 13.38.310(A)(1)(a).

   b. If the installation of the WCF’s equipment within the replacement utility pole is technologically infeasible, a provider may install the WCF’s associated equipment in accordance with any of the methods established in 13.38.310(A)(1)(b) – (d).

3. New utility poles. If a WCF is collocated on a new utility pole, a provider must install the WCF’s associated equipment within the pole in accordance with 13.38.310(A)(1)(a) or (d).

B. As required for the operation of a WCF or its equipment, an electric meter may be installed in accordance with requirements from the electric provider; provided, that the electric meter must be installed in the location that (1) minimizes its interference with other users of the City’s right-of-way including, but not limited to, pedestrians, motorists, and other entities with equipment in the right-of-way, and (2) minimizes its aesthetic impact.

C. The City shall not provide an exemption to these requirements when there is insufficient room in the right-of-way to place facilities at ground-level and to comply with ADA requirements, public safety concerns for pedestrians, cyclists, and motorists, or other articulable public safety concerns.

13.38.320 Undergrounding.
A provider must underground its equipment in conformity with cable and utilities as provided for in City ordinances and Utah Code Ann. §54-21-207, as amended.

A. Minimization. All WCFs shall be sited and designed to minimize adverse visual impacts on surrounding properties and the traveling public to the greatest extent reasonably possible within 100 feet of a site and consistent with the proper functioning of the WCF.

B. Integration. WCFs and equipment shall be integrated through location and design to blend in with the existing characteristics of the site. Such WCFs shall be designed to be compatible with the built environment, through matching and complimentary existing structures and specific design considerations such as architectural designs, height, scale, color and texture or be consistent with other uses and improvements permitted in the relevant vicinity.

C. Decorative poles. If a provider must displace a decorative pole to collocate a small wireless facility, the replacement pole must reasonably conform to design aesthetic of the displaced decorative pole.

D. Small wireless facility antennas should be concealed by a shroud.
E. When a freestanding power shut-off or power meter is required and cannot be integrated into the pole, the structure must be enclosed in a cabinet or pedestal.

F. Design/Historic Districts. Subject to Utah Code Ann. § 54-21-208, a provider’s design and location must be approved prior to collocating a new small wireless facility or installing a new utility pole in the following zones:

1. Historic districts and any neighboring areas within a ¼ mile
2. Timpanogos Highway Corridor
3. Town Center Overlay District

13.38.340 Stealth design/technology.
A. Stealth design is required and concealment techniques must be appropriate given the proposed location, design, visual environment, and nearby uses, structures, and natural features. Stealth design shall be designed and constructed to substantially conform to surrounding utility poles, light poles, or other similar support structures in the rights-of-way so the WCF is visually unobtrusive.

B. Stealth design requires screening WCFs in order to reduce visual impact. The provider must screen all substantial portions of the facility from view. Such screening should match the color and be of similar finish of the attached support structure.

C. WCFs and their associated equipment must be installed flush with any pole or support structure (including antennas mounted directly above the top of an existing pole or support structure) and the furthest point of an antenna or equipment may not extend beyond 18 inches from the pole or support structure except if the pole owner requires use of a standoff to comply with federal, state, or local rules, regulations, or laws. Any required standoff may not defeat stealth design and concealment techniques.

D. Stealth and concealment techniques do not include incorporating faux-tree designs of a kind that are not native to the state.

13.38.350 Lighting.
Only such lighting as is necessary to satisfy FAA requirements is permitted. White strobe lighting will not be allowed, unless specifically required by the FAA. Security lighting for the equipment shelters or cabinets and other on the ground ancillary equipment is permitted, as long as it is appropriately down shielded to keep light within the boundaries of the site.

13.38.360 Signage.
No facilities may bear any signage or advertisement except as permitted herein.

13.38.370 Site design flexibility.
Individual WCF sites vary in the location of adjacent buildings, existing trees, topography and other local variables. By mandating certain design standards, there may result a project that could have been less intrusive if the location of the various elements of the project could have been placed in more appropriate locations within the right-of-way. Therefore, the WCF and supporting equipment shall be installed so as to best camouflage, disguise them, or conceal them, to make the
WCF more closely compatible with and blend into the setting or host structure, to minimize the visual impact of the WCF, supporting equipment, and equipment enclosures on neighboring properties, or to interfere less with pedestrians, cyclists, motorists, and other users of the rights-of-way upon approval by the City.

13.38.380 General requirements.
All wireless communication facilities and utility poles shall be required to obtain a site permit and shall be subject to the site development standards prescribed herein. Every site permit application, regardless of type, shall contain the information required for an application and shall provide an industry standard pole load analysis.

13.38.390 Application review process.
A. Review for completeness. Upon receiving an application for the collocation of a small wireless facility or a new, modified, or replacement utility pole, the City will determine within 30 days if the application is complete. The City shall notify the applicant whether the application is complete.

B. Incomplete application. If the City determines the application is incomplete:
   1. the City will specifically identify the missing information in the written notification to the applicant; and
   2. the review deadline is tolled from the day that the City sends the applicant written notice of the missing information.

C. Shot clocks. The City must approve or deny a complete application within:
   1. 30 days for the installation of an in-strand antenna;
   2. 60 days for the collocation of a small wireless facility; or
   3. 105 days for a new, modified, or replacement utility pole.

D. Extension. The City may extend the deadlines above for an additional 10 business days if the City notifies the applicant before the day in which the deadline expires.

E. Deemed granted. If the City fails to approve or deny an application before its deadline, the application is deemed granted.

F. Denial. The City may deny an application that fails to meet the requirements of this chapter. If the City denies the application, the City will notify the applicant of the denial and document the basis for the denial including any specific laws on which the denial is based.

G. Cure. Within 30 days of the City’s denial, the applicant may cure any deficiency identified in the City’s denial and resubmit its application without paying an additional application fee. The City must approve or deny the resubmitted application within 30 days of its receipt.

13.38.400 Application consolidation and submission limit.
A. Consolidated application. An applicant may file a consolidated application for either:
1. the collocation of up to 25 small wireless facilities if all the small wireless facilities in the application are substantially the same type and are proposed for collocation on substantially the same types of structures; or

2. the installation, modification, or replacement of up to 25 utility poles.

A consolidated application may not combine the collocation of small wireless facilities and the installation, modification, or replacement of utility poles.

C. Submission limit. Within a 30-day period, an applicant may not file more than one consolidated application or multiple applications that collectively seek for a combined total of more than 25 small wireless facilities and utility poles.

13.38.410 Expired application.
An application expires if the City has notified the applicant that the application is incomplete and the applicant fails to respond within 90 days of the City’s notification.

13.38.420 Site permit approval.
Upon approval of a site permit, a provider:

A. must complete the work approved within the permit and make the small wireless facility operational within 270 days after the day on which the authority issues the permit, unless the lack of commercial power or communications facilities at the site delays completion.

B. is authorized to operate and maintain any small wireless facility or utility pole covered by the permit for a period of 10 years from the date of approval.

C. is not authorized to provide communications service within the right-of-way or to install, place, or operate any other facility or structure in the right-of-way.

13.38.430 Site permit renewal.
A. A provider with a current franchise agreement may renew an expiring site permit by submitting an application no sooner than 90 days prior the expiration of the site permit with the following information:

1. The location of the site permit;

2. The type of site permit;

3. Sufficient evidence that the WCF or utility pole meets or exceeds the requirements of this chapter at the time of renewal.

B. A site permit renewal may not be approved unless the covered WCF or utility pole is in compliance with this chapter at the time of the site permit renewal application is submitted.

C. A site permit renewal application will have the same application fee and review process as a collocation application.
**13.38.440 Exemptions.**
A. In accordance with Utah Code Ann. § 54-21-303, as amended, a provider is not required to submit an application, obtain a permit, or pay a rate for:

1. routine maintenance;
2. the replacement of a small wireless facility with a small wireless facility that is substantially similar or smaller in size; or
3. the installation, placement, maintenance, operation, or replacement of a micro wireless facility that is strung on a cable between existing utility poles in compliance with the National Electrical Safety Code.

B. A provider must obtain a permit for any of the activities that requires excavation or closing of sidewalks or vehicular lanes in a right-of-way.

C. A provider must provide the City with 14 days prior, written notice with sufficient supporting documentation of any of the activities described in 13.38.440(A). For example, the notice of the replacement of a small wireless facility that is substantially similar to an existing small wireless facility must include documentation that demonstrates that the replacement small wireless facility meets the requirements of being substantially similar.

**13.38.450 Exceptions to standards.**
A. Except as otherwise provided in this chapter (under site design flexibility), no WCF shall be used or developed contrary to any applicable development standard unless an exception has been granted pursuant to this Section. These provisions apply exclusively to WCFs and are in lieu of the generally applicable variance and design departure provisions in this code; provided this Section does not provide an exception from this chapter’s visual impact and stealth design.

B. A WCF’s exception is subject to approval by the City.

C. An application for a WCF exception shall include:

1. A written statement demonstrating how the exception would meet the criteria.
2. A site plan that includes:
   a. Description of the proposed facility’s design and dimensions, as it would appear with and without the exception.
   b. Elevations showing all components of the WCF, as it would appear with and without the exception.
   c. Color simulations of the WCF after construction demonstrating compatibility with the vicinity, as it would appear with and without the exception.
   d. An explanation that demonstrates the following:
      i. For macrocells, a significant gap in the coverage, capacity, or technologies of the service network exists such that users are frequently unable to connect to the service
network, or are regularly unable to maintain a connection, or are unable to achieve reliable wireless coverage within a building;

ii. The gap can only be filled through an exception to one or more of the standards herein;

iii. The exception is narrowly tailored to fill the service gap such that the wireless communication facility conforms to these standards to the greatest extent possible; and

iv. The manner in which the applicant proposes to fill the significant gap in coverage, capacity, or technologies of the service network is the least intrusive means on the values that these regulations seek to protect.

e. Any other information requested by the City in order to review the exception.

D. An application for a WCF exception shall be reviewed for consistency with the purpose of the standard for which the exception is sought.

13.38.460 Application to install a macrocell or nonpermitted utility pole.

A. The City generally does not permit macrocells and utility poles that are not permitted under Utah Code Ann. § 54-21-204. The City will only permit a nonpermitted macrocell or utility pole if required by federal law.

B. Macrocells and utility poles that are not permitted under Utah Code Ann. § 54-21-204, as amended, and are not subject to the application approval process established herein. As such, this Section implements, in part, 47 U.S.C. Section 332(c)(7) of the Federal Communications Act of 1934, as amended, as interpreted by the FCC in its Report and Order No. 14-153.

C. Application Review for nonpermitted macrocells and utility poles.

1. The City shall prepare and make publicly available an application form, the requirements of which shall be limited to the information necessary for the City to consider whether an application is a request to install a nonpermitted macrocell or utility pole.

2. Upon receipt of an application for a nonpermitted macrocell or utility pole pursuant to this Section, the City shall review such application, make its final decision to approve or disapprove the application, and advise the applicant in writing of its final decision.

3. Within 150 days of the date on which an applicant submits an application seeking approval of a nonpermitted macrocell or utility pole under this Section, the City shall review and act upon the application, subject to the tolling provisions below.

4. The 150-day review period begins to run when the application is filed and may be tolled only by mutual agreement between the City and the applicant, or in cases where the City determines that the application is incomplete.

a. To toll the time frame for incompleteness, the City must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.
b. The time frame for review begins running again when the applicant makes a supplemental submission in response to the City’s notice of incompleteness.

c. Following a supplemental submission, the City will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this Section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

5. Failure to Act. In the event the City fails to approve or deny a complete application under this Section within the time frame for review (accounting for any tolling), the applicant shall be entitled to pursue all remedies under applicable law.

D. In addition to the information required above, a nonpermitted macrocell or utility pole application must also include the following information:

1. The manufacturer’s recommended installation, if any;

2. A written affirmation for the applicant that the macrocell or utility pole meets or exceeds all applicable codes, applicable standards, and federal, state, and local requirements, laws, regulations, and polices;

3. A map that indicates the type and separation distance of other WCFs owned or operated by the same wireless provider from the proposed WCF.

4. A visual analysis including to-scale photo and visual simulations that show unobstructed before-and-after construction daytime and clear-weather views from at least two angles, together with a map that shows the location of each view including all equipment and ground wires. Such visual analysis must include a description, drawing, and elevations with the finished color, method of camouflage, and any illumination;

5. A detailed explanation justifying why the WCF is required in the right-of-way. The applicant must demonstrate in a clear and complete written alternative sites analysis that multiple alternatives in the geographic range of the service coverage objectives of the applicant were considered. This includes, but is not limited to, explaining why the installation of permitted small wireless facilities and the installation of a macrocell on private property are insufficient. This analysis must include a factually detailed and meaningful comparative analysis between each alternative candidate and the proposed site that explains the substantive reasons why the applicant rejected the alternative candidate.

   i. A complete alternative sites analysis provided under this subsection may not include less than 5 alternative sites unless the applicant provides a factually detailed rational for why it could not identify at least 5 potentially available sites.

   ii. For purposes of disqualifying potential alternative sites for the failure to meet the applicant’s service coverage objectives the applicant must provide (a) a description of its objective, whether it be to close a gap or address a deficiency in coverage, capacity, frequency or technology; (b) detailed technical maps or other exhibits with clear and
concise RF data to illustrate that the objective is not met using the alternative; and (c)
a description of why the alternative does not meet the objective.

6. An explanation that demonstrates the following:

   i. A significant gap in the coverage, capacity, or technologies of the service network
      exists such that users are frequently unable to connect to the service network, or are
      regularly unable to maintain a connection, or are unable to achieve reliable wireless
      coverage within a building;

   ii. The gap can only be filled through an exception to one or more of the standards
       herein; and

   iii. The exception is narrowly tailored to fill the service gap such that WCF
        conforms to these standards to the greatest extent possible.

   iv. The manner in which the applicant proposes to fill the significant gap in
        coverage, capacity, or technologies of the service network is the least intrusive means
        on the values that these regulations seek to protect.

7. A noise study for the proposed WCF and all associated equipment. The application
   shall provide manufacturer’s specifications for all noise-generating equipment, such as air
   conditioning units and back-up generators, and a depiction of the equipment location in
   relation to adjoining properties. The applicant shall provide a noise study prepared and
   sealed by a qualified Utah-license Professional Engineer that demonstrates that the WCF
   will comply with intent and goals of this chapter.

8. The proposed WCF may not be closer than the average distance between existing
   poles that are within one mile of the proposed site. If no poles exist within one mile of
   proposed pole site, then all subsequently placed poles must be at least 250’ from each
   other.

9. The design of a new pole must comply with the requirements of this chapter and be
   approved by the City.

10. An affidavit certifying that the applicant has posted or mailed notices to property
    owners within 300’ of the proposed WCF site.

    i. This requirement is not required to be met at the time application is submitted, but
       is required to be completed prior to approval of a permit.

    ii. The notice shall provide the following information:

       a. The applicant’s name and contact information.

       b. A phone number for the provider by which an individual could request
          additional information.

       c. A scaled site plan clearly indicating the location, type, height and width of
          the proposed tower, separation distances, adjacent roadways, photo simulations, a
depiction of all proposed transmission equipment, setbacks from property lines and the nearest buildings, and elevation drawings or renderings of the proposed tower and any other structures.

d. Language that states “If you have any public safety concerns or comments regarding the aesthetics or placement of this wireless communication facility, please submit your written comments within 14 days to:

Highland City
ATTN: City Engineer
5400 W. Civic Center Dr. Ste. 1
Highland, Utah 84003

Article VII. Construction and Technical Requirements

13.38.470 General requirement.

A. No provider shall receive a wireless franchise unless it agrees to comply with each of the terms set forth in this chapter governing construction and technical requirements for its system, in addition to any other reasonable requirements or procedures specified by the City or the wireless franchise, including requirements regarding colocation and cost sharing.

B. No antenna, small wireless facility, or other equipment may be added to City poles where the City poles are not able to structurally accommodate the antenna, small wireless facility, or other equipment. All antenna, small wireless facility, or other equipment permitted herein may be added to City poles only pursuant to a pole attachment agreement with the City.

C. WCFs that lawfully existed prior to the adoption of this chapter shall be allowed to continue their use as they presently exist. This code does not make lawful any WCF that is not fully approved on the date the ordinance codified in this chapter is adopted and those pending WCFs will be required to meet the requirements of this code.

D. The applicant must comply with all federal (such as the Americans with Disabilities Act), state, and local laws, city codes and requirements. This includes, but is not limited to, participating in Blue Stakes of Utah as required by Utah Code §54-8a-2 through §54-8a-13, as amended.

E. In the installation of any WCF within the rights-of-way, care must be taken to install in such a way that does not damage, interfere with, or disturb any other utility or entity that may already be located in the area. Any damage done to another utility’s or entity’s property must be immediately reported to both the City and the owner of the damaged property, and must be promptly repaired by the provider, with the provider being responsible for all costs of repair, including any extra charges that may be assessed for emergency repairs. Failure to notify the City and the damaged property owner will result in revocation of the franchise agreement. When approving the location for a WCF, the location of utilities or other entities’ property, or the need for the location of other utilities, within the rights-of-way must be considered before approval to locate the WCF will be given in order to ensure those other services to the public are not disrupted.
F. All WCFs and utility poles must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate WCFs and utility poles including, but not limited to, RF emissions. If such standards and regulations are changed, and if WCF equipment is added either through colocation or replacement, then the owners of the WCFs and utility poles governed by this chapter shall bring such WCFs and utility poles into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring WCFs and utility poles into compliance with such revised standards and regulations shall constitute grounds for the removal of the WCF or utility pole at the owner’s expense.

G. All structures shall be constructed and installed to manufacturer’s specifications, and constructed to withstand a minimum 100-mile per hour (mph) wind.

H. The following maintenance requirements apply to WCFs, as applicable:

1. All landscaping shall be maintained at all times.
2. All WCF sites shall be kept clean, neat, and free of litter.
3. A WCF shall be in good condition at all times. Rusting, dirt, or peeling facilities are prohibited.
4. All equipment cabinets shall display a legible operator’s contact number for reporting maintenance problems.
5. The applicant shall provide a description of anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and potential safety impacts of such maintenance.

I. Inspections.

1. The City or its agents shall have authority to enter onto the rights-of-way upon which a WCF is located to inspect the facility for the purpose of determining whether it complies with the applicable codes and applicable standards.
2. The City reserves the right to conduct such inspections at any time. In the event such inspection results in a determination that violation of applicable standards set forth by the City has occurred, the City will notify the provider of the violation.
3. Upon receipt of a notice of violation, the provider will have 30 days from the date of violation to correct the violation. If the provider fails to correct the violation within the 30-day period, the City may remove the violating WCF or utility pole at the provider’s sole expense.
4. The City may recover all of its costs incurred in processing and removing the violation.

13.38.480 Quality.
All work involved in the construction, maintenance, repair, upgrade and removal of the system shall be performed in a safe, thorough, and reliable manner using materials of good and durable quality. If, at any time, it is determined by the FCC or any other agency granted authority by
federal law or the FCC to make such determination, that any part of the system, including, without limitation, any means used to distribute signals over or within the system, is harmful to the public health, safety or welfare, or quality of service or reliability, then a provider shall, at its own cost and expense, promptly correct all such conditions.

13.38.490 Licenses and permits.
A provider shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the wireless communication system, including but not limited to any necessary approvals from persons, entities, the City, and other government entities (such as neighboring cities or the Utah Department of Transportation) to use private property, easements, poles, conduits, and right-of-way. A provider shall obtain any required permit, license, approval or authorization, including but not limited to excavation permits, pole attachment agreements, etc., prior to the commencement of the activity for which the permit, license, approval or authorization is required.

13.38.500 Relocation of the system.
A. Generally. The City may require a provider to relocate or adjust a small wireless facility or utility pole in a right-of-way in a timely manner and without cost to the City.

B. Emergency. The City may, at any time, in case of fire, disaster or other emergency, as determined by the City in its reasonable discretion, cut or move any parts of the wireless communication system and appurtenances on, over or under the right-of-way of the City, in which event the City shall not be liable therefor to a provider. The City shall notify a provider in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this Section.

C. Temporarily Move System for Third Party. A provider shall, upon prior reasonable written notice by the City or any person holding a permit to move any structure, and within the time that is reasonable under the circumstances, temporarily move any part of its wireless communication system to permit the moving of the structure. A provider may impose a reasonable charge on any person other than the City for any such movement of its systems.

13.38.510 Protect structures.
A. In connection with the construction, maintenance, repair, upgrade or removal of the wireless communication system, a provider shall, at its own cost and expense, protect any and all existing structures.

B. A provider shall obtain the prior written consent of the City to alter any water main, power facility, sewerage or drainage system, or any other municipal structure on, over or under the right-of-way of the City required because of the presence of the system. Such consent may be given at the sole discretion of the City. Any such alteration shall be made by the City or its designee on a reimbursable basis.

C. A provider agrees that it shall be liable for the costs incurred by the City to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the City any municipal structure or any other right-of-way of the City involved in the construction,
maintenance, repair, upgrade or removal of the system that may become disturbed or damaged as a result of any work thereon by or on behalf of a provider pursuant to the wireless franchise.

13.38.520 No obstruction.
In connection with the construction, maintenance, upgrade, repair or removal of the system, a provider shall not unreasonably obstruct the right-of-way of fixed guide way systems, railways, passenger travel, or other traffic to, from or within the City without the prior consent of the appropriate authorities.

13.38.530 Safety precautions.
A provider shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by OSHA and Utah OSHA. A provider shall comply with all applicable federal, state and local requirements including but not limited to the National Electric Safety Code.

13.38.540 Damage and Repair.
A. If a provider’s activity causes damage to a right-of-way, the provider must repair the right-of-way to substantially the same condition as before the damage.

B. If the provider fails to make a repair required by the City within a reasonable time after written notice, the City may make the required repair and charge the provider the reasonable, documented, actual cost for the repair.

C. If the provider’s damage causes an urgent safety hazard, the City may immediately make the necessary repair and charge the provider the reasonable, documented, actual cost for the repair.

D. The provider shall pay to the City the entire amount of the repair within 30 days of receiving of the City’s invoice.

Article VIII. Provider Responsibilities

A provider shall:

A. Install and maintain all parts of its wireless communication system in a good condition throughout the entire period of its wireless franchise.

B. Install and maintain its system in accordance with standard prudent engineering practices and shall conform with all applicable codes and all applicable standards.

C. At all reasonable times, permit examination by any duly authorized representative of the City of the system and its effect on the right-of-way.

13.38.560 Trimming of trees.
A provider shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance and easement restrictions, upon and hanging over right-of-way so as to prevent the branches of such trees from coming in contact with its wireless communication system. A provider must provide the City with written notice at least 14 days before performing such work.
13.38.570 Inventory of existing sites.
A provider shall provide every July 1st to the City an inventory of its existing WCFs or sites approved for WCFs, that are either within the jurisdiction of the City or within one mile of the border thereof, including specific information about the location, height, and design of each WCF and utility pole. The City may share such information with other applicants applying for permits under this chapter or other organizations seeking to locate antennas within the jurisdiction of the City; provided, however, that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

Article IX. Wireless Franchise and License Transferability

13.38.580 Notification of sale.
A. PSC Approval. When a provider or wireless communication system is the subject of a sale, transfer, lease, assignment, sublease or disposed of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, such that it or its successor entity is obligated to inform or seek the approval of the PSC, the provider or its successor entity shall promptly notify the City of the nature of the transaction and, if applicable, request a transfer of the wireless franchise to the successor entity. A request for transfer shall include a certification that the successor entity unequivocally agrees to all the terms of the original provider’s wireless franchise agreement.

B. Transfer of Wireless Franchise. Upon receipt of a request to transfer a wireless franchise, the City designee shall, if it approves such transfer, send notice affirming the transfer of the wireless franchise to the successor entity. If the City has good cause to believe that the successor entity may not comply with this chapter or the wireless franchise agreement, it may require an application for the transfer. The application shall comply with Article V of this chapter.

C. If PSC Approval No Longer Required. If the PSC no longer exists, or if its regulations or state law no longer require approval of transactions described in this Section, and the City has good cause to believe that the successor entity may not comply with this chapter or the wireless franchise agreement, it may require an application. The application shall comply with Article V of this chapter.

13.38.590 Events of sale.
The following events shall be deemed to be a sale, assignment or other transfer of the wireless franchise requiring City approval: (A) the sale, assignment or other transfer of all or a majority of a provider’s assets to another person; (B) the sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in a provider by one or more of its existing shareholders, partners, members or other equity owners so as to create a new controlling interest in a provider; (C) the issuance of additional capital stock or partnership, membership or other equity interest by a provider so as to create a new controlling interest in such a provider; or (D) the entry by a provider into an agreement with respect to the management or operation of such provider or its system.
Article X. Oversight and Regulation

13.38.600 Insurance, indemnity, and security.
A. A provider will deposit with the City an irrevocable, unconditional letter of credit or surety bond as required by the terms of the wireless franchise and shall obtain and provide proof of the insurance coverage required by the wireless franchise. A provider shall also indemnify the City as set forth in the wireless franchise.

B. Each permit issued for a WCF or utility pole located within the right-of-way or on City property shall be deemed to have as a condition of the permit a requirement that the applicant defend, indemnify and hold harmless the City and its officials, officers, agents, employees, volunteers, and contractors from any and all liability, damages, or charges (including attorneys’ fees and expenses) arising out of claims, suits, demands, or causes of action as a result of the permit process, a granted permit, construction, erection, location, performance, operation, maintenance, repair, installation, replacement, removal, or restoration of the WCF or utility pole.

13.38.610 Oversight.
The City shall have the right to oversee, regulate and inspect periodically the construction, maintenance, and upgrade of the wireless communication system, and any part thereof, in accordance with the provisions of the wireless franchise and applicable law. A provider shall establish and maintain managerial and operational records, standards, procedures and controls to enable a provider to prove, in reasonable detail, to the satisfaction of the City at all times throughout the term, that a provider is in compliance with the wireless franchise. A provider shall retain such records for not less than the applicable statute of limitations.

13.38.620 Maintain records.
A provider shall at all times maintain:

A. On file with the City, a full and complete set of plans, records and “as-built” hard copy maps and, to the extent the maps are placed in an electronic format, they shall be made in electronic format compatible with the City’s existing GIS system, of all existing and proposed installations and the types of equipment and systems installed or constructed in the right-of-way, properly identified and described as to the types of equipment and facility by appropriate symbols and marks which shall include annotations of all right-of-way where work will be undertaken. As used herein, “as-built” maps includes “file construction prints.” Maps shall be drawn to scale. “As-built” maps, including the compatible electronic format, as provided above, shall be submitted within 30 days of completion of work or within 30 days after completion of modification and repairs. “As-built” maps are not required of the provider who is the incumbent local exchange carrier for the existing system to the extent they do not exist.

B. Throughout the term of the wireless franchise, a provider shall maintain complete and accurate books of account and records of the business, ownership, and operations of a provider with respect to the system in a manner that allows the City at all times to determine whether a provider is in compliance with the wireless franchise. Should the City reasonably determine that the records are not being maintained in such a manner, a provider shall alter the manner in which the books and/or records are maintained so that a provider comes into compliance with this Section. All financial books and records which are maintained in accordance with the regulations
of the FCC and any governmental entity that regulates utilities in the state of Utah, and generally accepted accounting principles, shall be deemed to be acceptable under this Section.

13.38.630 Confidentiality.
If the information required to be submitted is proprietary in nature or may be kept confidential under federal, state or local law, the provider may make such a request to the City in writing in accordance with the Utah Government Records Access and Management Act, Title 63G Chapter 2 of the Utah Code Ann., as amended (“GRAMA”). A provider recognizes that the City, as a governmental entity under GRAMA, cannot guarantee the confidentiality of any information in the City’s possession, and the provider submits such information at its own risk.

13.38.640 Provider’s expense.
All reports and records required under this chapter shall be furnished at the sole expense of a provider, except as otherwise provided in this chapter or a wireless franchise.

13.38.650 Right of inspection.
For the purpose of verifying the correct amount of the wireless franchise fee, the books and records of the provider pertaining thereto shall be open to inspection or audit by duly authorized representatives of the City at all reasonable times, upon giving reasonable notice of the intention to inspect or audit the books and records; provided, that the City shall not audit the books and records of the provider more often than annually. The provider agrees to reimburse the City the reasonable costs of an audit if the audit discloses that the provider has paid ninety-five percent or less of the compensation due the City for the period of such audit. In the event the accounting rendered to the City by the provider herein is found to be incorrect, then payment shall be made on the corrected amount within 30 calendar days of written notice, it being agreed that the City may accept any amount offered by the provider, but the acceptance thereof by the City shall not be deemed a settlement of such item if the amount is in dispute or is later found to be incorrect.

Article XI. Rights of City

13.38.660 Enforcement and remedies.
A. The City is responsible for enforcing and administering this chapter, and the City or its designee, as appointed by the mayor, is authorized to give any notice required by law or under any wireless franchise agreement.

B. In the event that an individual or entity violates this chapter, the City will notify the violating party of the violation and provide 30 days for the party to cure the violation.

C. If the violation is not cured within 30 days, the City may:
   1. Fine the violating party $500 per day until the violation is cured; and
   2. Terminate or suspend any franchises, permits, or licenses held by the violating party.

D. If the violation is not cured within 180 days of the City’s notice, the City may remove and impound the grantee’s equipment until the violation has been cured.
13.38.670 Force majeure.
In the event a provider’s performance of any of the terms, conditions or obligations required by this chapter or a wireless franchise is prevented by a cause or event not within a provider’s control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this Section, causes or events not within the control of a provider shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of utilities, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires.

13.38.680 Extended operation and continuity of services.
A. Continuation after Expiration. Upon either expiration or revocation of a wireless franchise granted pursuant to this chapter, the City shall have discretion to permit or require a provider to continue to operate its system or provide services for an extended period of time not to exceed six months from the date of such expiration or revocation. A provider shall continue to operate its system under the terms and conditions of this chapter and the wireless franchise granted pursuant to this chapter.

13.38.690 Removal or abandonment of wireless franchise property.
A provider is subject to the removal and abandonment requirements of Chapter 12.14.

Article XII. Obligation to Notify

13.38.700 Publicizing work.
Before entering onto any private property, a provider shall notify the property owners in advance and describe the work to be performed.

Article XIII. General Provisions

13.38.710 Conflicts.
In the event of a conflict between any provision of this chapter and a wireless franchise entered pursuant to it, the provisions of this chapter shall control.

13.38.720 Severability.
If any provision of this chapter is held by any federal, state or local court of competent jurisdiction to be invalid as conflicting with any federal or state statute, or is ordered by a court to be modified in any way in order to conform to the requirements of any such law and all appellate remedies with regard to the validity of the chapter provisions in question are exhausted, such provision shall be considered a separate, distinct, and independent part of this chapter, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with such law the provision in question shall return to full force and effect and shall again be binding on the City and the provider; provided, that the City shall give the provider 30 days, or a longer period of time as may be reasonably required for a provider to comply with such a rejuvenated provision, written notice of the change before requiring compliance with such provision.

It shall be the policy of the City to liberally amend this chapter, upon application of a provider, when necessary to enable the provider to take advantage of any developments in the field of
personal wireless services which will afford the provider an opportunity to more effectively,
efficiently, or economically serve itself or the public.

13.38.740 Notices.
All notices from a provider to the City required under this chapter or pursuant to a wireless
franchise granted pursuant to this chapter shall be directed to the City. A provider shall provide in
any application for a wireless franchise the identity, address and phone number to receive notices
from the City. A provider shall immediately notify the City of any change in its name, address, or
telephone number.

13.38.750 Exercise of police power.
To the full extent permitted by applicable law either now or in the future, the City reserves the right
to amend this chapter and/or to adopt or issue such rules, regulations, orders, or other directives
that it finds necessary or appropriate in the lawful exercise of its police powers and its power to
manage the right-of-way.

Article XIV. Federal, State and City Jurisdiction

13.38.760 Construction.
This chapter shall be construed in a manner consistent with all applicable federal and state statutes.

13.38.770 Chapter applicability.
This chapter shall apply to all wireless franchises granted or renewed after the effective date of the
ordinance codified in this chapter. This chapter shall further apply, to the extent permitted by
applicable federal or state law, to all existing wireless franchises granted prior to the effective date
of the ordinance codified in this chapter and to a provider providing services, without a wireless
franchise, prior to the effective date of this chapter.

13.38.780 Other applicable ordinances.
A provider’s rights are subject to the police powers of the City to adopt and enforce ordinances
necessary to the health, safety and welfare of the public. A provider shall comply with all
applicable general laws and ordinances enacted by the City pursuant to its police powers. In
particular, all providers shall comply with the City zoning and other land use requirements.

13.38.790 City failure to enforce.
A provider shall not be relieved of its obligation to comply with any of the provisions of this
chapter or any wireless franchise granted pursuant to this chapter by reason of any failure of the
City to enforce prompt compliance.

13.38.800 Construed according to Utah law.
This chapter and any wireless franchise granted pursuant to this chapter shall be construed and
enforced in accordance with the substantive laws of the state of Utah. Specifically, in the event of
any conflict between this chapter with the Small Wireless Facilities Deployment Act, Title 54
Chapter 21 of the Utah Code Ann., as amended, the Small Wireless Facilities Deployment Act
shall control.
SEVERABILITY

If any provision or clause of this chapter or its application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications which can be implemented without the invalid provision, clause, or application. To this end, the provisions of this chapter are declared to be severable.

EFFECTIVE DATE

This amendment to the ordinance shall become effective on the date passed by the City Council of Highland.

PASSED AND ADOPTED THIS ______ DAY OF ________________________, 2019.

MAYOR OF HIGHLAND:

________________________________
ROD MANN

ATTEST:

________________________________
CITY RECORDER
Staff Recommendation:
The City Council should review the final master plan and provide staff with direction regarding the following:

- Approval or modification of the Final Master Plan
- Element phasing
- Project financing, including sources of revenue and maximum budget for the first phase
- Authorization to proceed with final construction documents
- Community Open House – January 24th

Background:
Mountain Ridge Park is an approximately 17.6-acre park located at the southwest corner of 5600 West and 10400 North. The park has been classified as an Athletic Complex in the General Plan. Athletic parks include open play fields, picnic areas, trails, play structures, and formal sports facilities such as basketball courts, baseball fields, and volleyball courts.

At the direction of the City Council, staff has been working with our consultant to finalize the master plan for the park. The proposed final design includes the following:

- 27 pickle ball courts with a three court center court.
- Two multi-use play fields which have been placed between the pickle ball courts and the existing residential homes to the south
- An all accessible playground
- Large Pavilion and Restroom Building
- Parks Department Operation and Maintenance Building
- Looped Walking Path
- 180 parking spaces.

Staff has also prepared preliminary costs of the park based on project elements. These
costs are conceptual in nature and are for discussion only. They will change as final documents are prepared.

- Pickle Ball Courts – $2,546,586 (Court Lighting, Shade Canopies, and a Communication/Sound System would add an additional: $458,000 for a total of $3,004,586)
- Playground Area – $811,279
- West Field – $731,743
- East Field – $669,761
- Parking (including offsite) – $981,123
- Total Cost: $5,740,493 (excluding court lighting, shade canopies, etc.)

Once the master plan has been approved by the Council, the public open house can be scheduled, processing of the conditional use permit can begin and the consultant can begin construction documents. Based on the preliminary schedule we are more than one month behind schedule.

**FISCAL IMPACT:**

Based on previous discussions and direction from the Council, Staff is estimating that there is approximately $1,130,000 to $1,660,000 of City funds available for the park. The Council will need to identify the additional funding to be used.

The Council will also need to discuss the maximum budget and prioritize the park elements. Staff recommends that the Council prioritize the elements that will represent the best use of resources for all residents of Highland. Once this is completed we can prepare phasing plans.

**ATTACHMENTS:**

1. Proposed Master Plan
2. Element Map
3. Draft Element Costs
Need Cost for as pickle ball

Need Cost for this as parking Gravel vs Asphalt

Need Cost for this are as west field

Need Cost for this are as east field

Need Cost for this area
As playground
### Preliminary Cost Estimate by Area

#### Parking and Roadway

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Unit</th>
<th>Quantity</th>
<th>Unit Cost</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 a.</td>
<td>Asphalt Sawcut &amp; Removal</td>
<td>sq. ft.</td>
<td>1,560</td>
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<td>$ 7,800.00</td>
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<td>1 b.</td>
<td>Curb &amp; Gutter Removal</td>
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<td>$ 300.00</td>
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<tr>
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<td>Sidewalk Removal</td>
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<td>$ 750.00</td>
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<td>111,985</td>
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<td>$ 11,198.50</td>
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<td>Water Service Connection</td>
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<td>1</td>
<td>$ 12,500.00</td>
<td>$ 12,500.00</td>
</tr>
<tr>
<td>1 f.</td>
<td>Water Lines</td>
<td>lump</td>
<td>1</td>
<td>$ 15,000.00</td>
<td>$ 15,000.00</td>
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<tr>
<td>1 g.</td>
<td>Fire Hydrant &amp; Connection</td>
<td>each</td>
<td>3</td>
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<td>$ 5,000.00</td>
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<tr>
<td>1 i.</td>
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<td>$ 10,000.00</td>
<td>$ 10,000.00</td>
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<tr>
<td>1 j.</td>
<td>Sewer Line</td>
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<td>$ 15,000.00</td>
<td>$ 15,000.00</td>
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<tr>
<td>1 k.</td>
<td>Storm Drainage</td>
<td>lump</td>
<td>1</td>
<td>$ 12,500.00</td>
<td>$ 12,500.00</td>
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<tr>
<td>1 l.</td>
<td>Electrical service, panel, conduit, controls, equipment, etc.</td>
<td>lump</td>
<td>1</td>
<td>$ 25,000.00</td>
<td>$ 25,000.00</td>
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<tr>
<td>1 m.</td>
<td>Parking Lot Lighting</td>
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<td>$ 50,000.00</td>
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<td>Site Rough Grading</td>
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<td>251</td>
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<td>$ 4,388.61</td>
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<td>$ 1,500.00</td>
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<td>Asphalt Roadway (10400 N)</td>
<td>sq. ft.</td>
<td>6,280</td>
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<td>$ 25,120.00</td>
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<tr>
<td>1 r.</td>
<td>Asphalt Parking Lot</td>
<td>sq. ft.</td>
<td>69,937</td>
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<td>1 s.</td>
<td>Curb &amp; Gutter (10400 N)</td>
<td>lin. ft.</td>
<td>925</td>
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<td>$ 23,125.00</td>
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<td>1 t.</td>
<td>Curb &amp; Gutter (Parking Lot)</td>
<td>lin. ft.</td>
<td>3,233</td>
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<td>$ 80,825.00</td>
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<td>1 u.</td>
<td>Concrete Driveway</td>
<td>sq. ft.</td>
<td>1,040</td>
<td>$ 8.00</td>
<td>$ 8,320.00</td>
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<tr>
<td>1 v.</td>
<td>Traffic/Parking Signage</td>
<td>lump</td>
<td>1</td>
<td>$ 3,500.00</td>
<td>$ 3,500.00</td>
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<tr>
<td>1 w.</td>
<td>Striping (Parking Lot)</td>
<td>lump</td>
<td>1</td>
<td>$ 2,500.00</td>
<td>$ 2,500.00</td>
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<tr>
<td>1 x.</td>
<td>Concrete Walk</td>
<td>sq. ft.</td>
<td>4,186</td>
<td>$ 5.50</td>
<td>$ 23,023.00</td>
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<tr>
<td>1 y.</td>
<td>ADA Ramp</td>
<td>each</td>
<td>10</td>
<td>$ 2,400.00</td>
<td>$ 24,000.00</td>
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<td>1 z.</td>
<td>Concrete Mow Curb</td>
<td>lin. ft.</td>
<td>100</td>
<td>$ 15.00</td>
<td>$ 1,500.00</td>
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<tr>
<td>1 aa.</td>
<td>Irrigation System</td>
<td>lump</td>
<td>1</td>
<td>$ 31,238.00</td>
<td>$ 31,238.00</td>
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<tr>
<td>1 bb.</td>
<td>4&quot; Imported Topsoil - Sod</td>
<td>cu. yd.</td>
<td>330</td>
<td>$ 22.00</td>
<td>$ 7,256.24</td>
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<tr>
<td>1 cc.</td>
<td>12&quot; Imported Topsoil - Shrub Beds</td>
<td>cu. yd.</td>
<td>157</td>
<td>$ 22.00</td>
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<td>1 dd.</td>
<td>Bluegrass Sod</td>
<td>sq. ft.</td>
<td>26,986</td>
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<td>$ 20,239.50</td>
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<tr>
<td>1 ee.</td>
<td>Deciduous Tree including Backfill</td>
<td>each</td>
<td>40</td>
<td>$ 425.00</td>
<td>$ 17,000.00</td>
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<td>1 ff.</td>
<td>Evergreen Tree including Backfill</td>
<td>each</td>
<td>5</td>
<td>$ 425.00</td>
<td>$ 2,125.00</td>
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<tr>
<td>1 gg.</td>
<td>Ornamental Tree including Backfill</td>
<td>each</td>
<td>5</td>
<td>$ 350.00</td>
<td>$ 1,750.00</td>
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<tr>
<td>1 hh.</td>
<td>Shrub Beds</td>
<td>sq. ft.</td>
<td>4,252</td>
<td>$ 4.00</td>
<td>$ 17,008.00</td>
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<tr>
<td>1 ii.</td>
<td>Landscape Boulders</td>
<td>each</td>
<td>-</td>
<td>$ 300.00</td>
<td>$ -</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Mobilization = $ 40,626.22</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub Total Parking &amp; Roadway = $ 853,150.56</td>
</tr>
<tr>
<td>Contingency (15%) = $ 127,972.58</td>
</tr>
</tbody>
</table>

**Estimated Total Parking & Roadway = $ 981,123.15**

#### Pickleball

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Unit</th>
<th>Quantity</th>
<th>Unit Cost</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 a.</td>
<td>Clear and Grub</td>
<td>sq. ft.</td>
<td>189,500</td>
<td>$ 0.10</td>
<td>$ 18,950.00</td>
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<tr>
<td>2 b.</td>
<td>Storm Drainage</td>
<td>lump</td>
<td>1</td>
<td>$ 15,000.00</td>
<td>$ 15,000.00</td>
</tr>
</tbody>
</table>

#### Mountain Ridge Park

**Preliminary Cost Estimate by Area**

- **Parking and Roadway**
  - Total: $ 981,123.15
- **Pickleball**
  - Total: $ 18,950.00

**Total Mobilization: $ 40,626.22**

**Estimated Total Parking & Roadway: $ 981,123.15**
### Electrical Service, Panel, Conduit, Controls, Equipment, etc.
- **Electrical service, panel, conduit, controls, equipment, etc.**: lump 1 | $25,000.00 | $25,000.00

### Sports Lighting
- **Sports Lighting**: lump - | $432,000.00 | -

### Sound System
- **Sound System**: lump - | $5,000.00 | -

### Communications
- **Communications**: lump - | $5,000.00 | -

### Site Rough Grading
- **Site Rough Grading**: cu. yd. 7,019 | $12.50 | $87,731.48

### Clean Import
- **Clean Import**: cu. yd. - | $17.50 | -

### Erosion Control/SWPPP
- **Erosion Control/SWPPP**: lump 1 | $1,500.00 | $1,500.00

### Concrete Walk & Hardscape
- **Concrete Walk & Hardscape**: sq. ft. 88,385 | $5.50 | $461,092.50

### Post Tensioned Pickleball Courts (set of 4)
- **Post Tensioned Pickleball Courts**: each 6.75 | $70,000.00 | $472,500.00

### Pickleball Court Fencing and Gates
- **Pickleball Court Fencing and Gates**: lump 1 | $189,000.00 | $189,000.00

### Pickleball Court Shade Canopies
- **Pickleball Court Shade Canopies**: each - | $16,000.00 | -

### Concrete Mow Curb
- **Concrete Mow Curb**: lin. ft. - | $15.00 | -

### Drinking Fountain
- **Drinking Fountain**: each 3 | $5,000.00 | $15,000.00

### Park Benches
- **Park Benches**: each - | $2,000.00 | -

### Picnic Tables
- **Picnic Tables**: each - | $1,500.00 | -

### Trash Receptacles
- **Trash Receptacles**: each 20 | $1,500.00 | $30,000.00

### Bike Racks
- **Bike Racks**: each - | $750.00 | -

### Large Pavilion & Restroom
- **Large Pavilion & Restroom**: lump 1 | $480,000.00 | $480,000.00

### Gateway Feature
- **Gateway Feature**: lump 1 | $100,000.00 | $100,000.00

### Irrigation System
- **Irrigation System**: lump 1 | $45,727.00 | $45,727.00

### 4" Imported Topsoil - Sod
- **4" Imported Topsoil - Sod**: cu. yd. 307 | $22.00 | $6,764.44

### 12" Imported Topsoil - Shrub Beds
- **12" Imported Topsoil - Shrub Beds**: cu. yd. 762 | $22.00 | $16,760.74

### Bluegrass Sod
- **Bluegrass Sod**: sq. ft. 25,157 | $0.75 | $18,867.75

### Deciduous Tree including Planting Backfill (2" Cal.)
- **Deciduous Tree including Planting Backfill (2" Cal.)**: each 70 | $425.00 | $29,750.00

### Evergreen Tree including Planting Backfill (6-8' Ht.)
- **Evergreen Tree including Planting Backfill (6-8' Ht.)**: each 6 | $425.00 | $2,550.00

### Ornamental Tree including Planting Backfill (2" Cal.)
- **Ornamental Tree including Planting Backfill (2" Cal.)**: each 30 | $350.00 | $10,500.00

### Shrub Beds
- **Shrub Beds**: sq. ft. 20,570 | $4.00 | $82,280.00

### Landscape Boulders
- **Landscape Boulders**: each - | $300.00 | -

### Clear and Grub
- **Clear and Grub**: sq. ft. 41,481 | $0.10 | $4,148.10

### Water Lines
- **Water Lines**: lump - | $2,500.00 | $2,500.00

### Storm Drainage
- **Storm Drainage**: lump - | $5,000.00 | $5,000.00

### Security Lighting
- **Security Lighting**: lump - | $5,000.00 | $5,000.00

### Site Rough Grading
- **Site Rough Grading**: cu. yd. 1,536 | $12.50 | $19,204.17

### Clean Import
- **Clean Import**: cu. yd. 183 | $12.50 | $2,500.00

### Erosion Control/SWPPP
- **Erosion Control/SWPPP**: lump - | $5,000.00 | -

### Concrete Walk
- **Concrete Walk**: sq. ft. 9,855 | $5.50 | $54,202.50

### Concrete Mow Curb
- **Concrete Mow Curb**: lin. ft. - | $15.00 | -

### Drinking Fountain
- **Drinking Fountain**: each - | $5,000.00 | -

### Park Benches
- **Park Benches**: each 8 | $2,000.00 | $16,000.00

### Picnic Tables
- **Picnic Tables**: each 6 | $1,500.00 | $9,000.00

### Trash Receptacles
- **Trash Receptacles**: each 6 | $1,500.00 | $9,000.00

### Bike Racks
- **Bike Racks**: each 1 | $750.00 | $750.00

### Estimated Total Pickleball
- **Estimated Total Pickleball**: | $2,546,586.00

### Contingency (15%)
- **Contingency (15%)**: | $332,163.39

### Mobilization
- **Mobilization**: | $105,448.70

### Sub Total Pickleball
- **Sub Total Pickleball**: | $2,214,422.61
<table>
<thead>
<tr>
<th>Item Description</th>
<th>Unit</th>
<th>Quantity</th>
<th>Unit Cost</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>o. Medium Pavilion</td>
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<tr>
<td>p. Playground Equipment</td>
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<td>$250,000.00</td>
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<td>q. Playground Surfacing</td>
<td>sq. ft.</td>
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<td>r. Playground Curbing</td>
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<td>s. Irrigation System</td>
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<td>$20,815.00</td>
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<tr>
<td>t. 4&quot; Imported Topsoil - Sod</td>
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<td>u. 12&quot; Imported Topsoil - Shrub Beds</td>
<td>cu. yd.</td>
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<td>-</td>
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<tr>
<td>v. Bluegrass Sod</td>
<td>sq. ft.</td>
<td>20,815</td>
<td>$0.75</td>
<td>$15,611.25</td>
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<tr>
<td>w. Deciduous Tree including Planting Backfill (2&quot; Cal.)</td>
<td>each</td>
<td>16</td>
<td>$425.00</td>
<td>$6,800.00</td>
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<tr>
<td>x. Evergreen Tree including Planting Backfill (6-8' Ht.)</td>
<td>each</td>
<td>-</td>
<td>$425.00</td>
<td>-</td>
</tr>
<tr>
<td>y. Ornamental Tree including Planting Backfill (2&quot; Cal.)</td>
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<td>42</td>
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<td>z. Shrub Beds</td>
<td>sq. ft.</td>
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<td>$4.00</td>
<td>-</td>
</tr>
<tr>
<td>aa. Landscape Boulders</td>
<td>each</td>
<td>-</td>
<td>$300.00</td>
<td>-</td>
</tr>
</tbody>
</table>

Mobilization = $33,593.33

Sub Total Playground = $705,460.02

Contingency (15%) = $105,819.00

Estimated Total Playground = $811,279.03

4. West Fields

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Unit</th>
<th>Quantity</th>
<th>Unit Cost</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Clear and Grub</td>
<td>sq. ft.</td>
<td>193,583</td>
<td>$0.10</td>
<td>$19,358.30</td>
</tr>
<tr>
<td>b. Storm Drainage</td>
<td>lump</td>
<td>1</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>c. Pathway Lighting</td>
<td>lump</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>d. Site Rough Grading</td>
<td>cu. yd.</td>
<td>7,170</td>
<td>$12.50</td>
<td>$89,621.76</td>
</tr>
<tr>
<td>e. Clean Import</td>
<td>cu. yd.</td>
<td>200</td>
<td>$17.50</td>
<td>$3,493.52</td>
</tr>
<tr>
<td>f. Erosion Control/SWPPP</td>
<td>lump</td>
<td>1</td>
<td>$2,500.00</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>g. Concrete Walk</td>
<td>sq. ft.</td>
<td>10,780</td>
<td>$5.50</td>
<td>$59,290.00</td>
</tr>
<tr>
<td>h. Concrete Mow Curb</td>
<td>lin. ft.</td>
<td>-</td>
<td>$15.00</td>
<td>-</td>
</tr>
<tr>
<td>i. Park Benches</td>
<td>each</td>
<td>4</td>
<td>$2,000.00</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>j. Picnic Tables</td>
<td>each</td>
<td>4</td>
<td>$1,500.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>k. Trash Receptacles</td>
<td>each</td>
<td>4</td>
<td>$1,500.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>l. Irrigation System</td>
<td>lump</td>
<td>1</td>
<td>$183,200.00</td>
<td>$183,200.00</td>
</tr>
<tr>
<td>m. 4&quot; Imported Topsoil - Sod</td>
<td>cu. yd.</td>
<td>2,239</td>
<td>$22.00</td>
<td>$49,260.44</td>
</tr>
<tr>
<td>n. 12&quot; Imported Topsoil - Shrub Beds</td>
<td>cu. yd.</td>
<td>-</td>
<td>$22.00</td>
<td>-</td>
</tr>
<tr>
<td>o. Bluegrass Sod</td>
<td>sq. ft.</td>
<td>183,200</td>
<td>$0.75</td>
<td>$137,400.00</td>
</tr>
<tr>
<td>p. Deciduous Tree including Planting Backfill (2&quot; Cal.)</td>
<td>each</td>
<td>50</td>
<td>$425.00</td>
<td>$21,250.00</td>
</tr>
<tr>
<td>q. Evergreen Tree including Planting Backfill (6-8' Ht.)</td>
<td>each</td>
<td>5</td>
<td>$425.00</td>
<td>$2,125.00</td>
</tr>
<tr>
<td>r. Ornamental Tree including Planting Backfill (2&quot; Cal.)</td>
<td>each</td>
<td>10</td>
<td>$350.00</td>
<td>$3,500.00</td>
</tr>
<tr>
<td>s. Shrub Beds</td>
<td>sq. ft.</td>
<td>-</td>
<td>$4.00</td>
<td>-</td>
</tr>
<tr>
<td>t. Landscape Boulders</td>
<td>each</td>
<td>-</td>
<td>$300.00</td>
<td>-</td>
</tr>
</tbody>
</table>

Mobilization = $30,299.95

Sub Total West Field = $636,298.97

Contingency (15%) = $95,444.85

Estimated Total West Field = $731,743.82

5. East Fields

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Unit</th>
<th>Quantity</th>
<th>Unit Cost</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Clear and Grub</td>
<td>sq. ft.</td>
<td>181,070</td>
<td>$0.10</td>
<td>$18,107.00</td>
</tr>
<tr>
<td>b. Storm Drainage</td>
<td>lump</td>
<td>1</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>c. Pathway Lighting</td>
<td>lump</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Item</td>
<td>Unit</td>
<td>Quantity</td>
<td>Unit Price</td>
<td>Total Price</td>
</tr>
<tr>
<td>------------------------------------------------</td>
<td>-------</td>
<td>----------</td>
<td>------------</td>
<td>--------------</td>
</tr>
<tr>
<td>d. Site Rough Grading</td>
<td>cu. yd.</td>
<td>6,706</td>
<td>$12.50</td>
<td>$83,828.70</td>
</tr>
<tr>
<td>e. Clean Import</td>
<td>cu. yd.</td>
<td>111</td>
<td>$17.50</td>
<td>$1,941.85</td>
</tr>
<tr>
<td>f. Erosion Control/SWPPP</td>
<td>lump</td>
<td>1</td>
<td>$2,500.00</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>g. Concrete Walk</td>
<td>sq. ft.</td>
<td>5,992</td>
<td>$5.50</td>
<td>$32,956.00</td>
</tr>
<tr>
<td>h. Concrete Mow Curb</td>
<td>lin. ft.</td>
<td>-</td>
<td>$15.00</td>
<td>-</td>
</tr>
<tr>
<td>i. Park Benches</td>
<td>each</td>
<td>4</td>
<td>$2,000.00</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>j. Picnic Tables</td>
<td>each</td>
<td>4</td>
<td>$1,500.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>k. Trash Receptacles</td>
<td>each</td>
<td>4</td>
<td>$1,500.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>l. Irrigation System</td>
<td>lump</td>
<td>1</td>
<td>$175,076.00</td>
<td>$175,076.00</td>
</tr>
<tr>
<td>m. 4&quot; Imported Topsoil - Sod</td>
<td>cu. yd.</td>
<td>2,140</td>
<td>$22.00</td>
<td>$47,075.99</td>
</tr>
<tr>
<td>n. 12&quot; Imported Topsoil - Shrub Beds</td>
<td>cu. yd.</td>
<td>-</td>
<td>$22.00</td>
<td>-</td>
</tr>
<tr>
<td>o. Bluegrass Sod</td>
<td>sq. ft.</td>
<td>175,076</td>
<td>$0.75</td>
<td>$131,307.00</td>
</tr>
<tr>
<td>p. Deciduous Tree including Planting Backfill (2&quot; Cal.)</td>
<td>each</td>
<td>50</td>
<td>$425.00</td>
<td>$21,250.00</td>
</tr>
<tr>
<td>q. Evergreen Tree including Planting Backfill (6-8' Ht.)</td>
<td>each</td>
<td>5</td>
<td>$425.00</td>
<td>$2,125.00</td>
</tr>
<tr>
<td>r. Ornamental Tree including Planting Backfill (2&quot; Cal.)</td>
<td>each</td>
<td>10</td>
<td>$350.00</td>
<td>$3,500.00</td>
</tr>
<tr>
<td>s. Shrub Beds</td>
<td>sq. ft.</td>
<td>-</td>
<td>$4.00</td>
<td>-</td>
</tr>
<tr>
<td>t. Landscape Boulders</td>
<td>each</td>
<td>-</td>
<td>$300.00</td>
<td>-</td>
</tr>
</tbody>
</table>

| Sub Total East Field                          |      | $582,400.92 |
| Contingency (15%)                             |      | $87,360.14  |
| Estimated Total East Field                    |      | $669,761.06 |

| PARKING & ROADWAY TOTAL                       |      | $981,123.15 |
| PICKLEBALL TOTAL                              |      | $2,546,586.00|
| PLAYGROUND TOTAL                              |      | $811,279.03 |
| WEST FIELD TOTAL                              |      | $731,743.82 |
| EAST FIELD TOTAL                              |      | $669,761.06 |
| ESTIMATED PROJECT TOTAL                       |      | $5,740,493.05|