



**HIGHLAND CITY**

**HIGHLAND CITY COUNCIL MINUTES**

**Tuesday, April 20, 2021**

**Approved May 18, 2021**

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

**VIRTUAL PARTICIPATION**

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

 Zoom: Call 1-346-248-7799 Meeting ID: 889 5166 4484

 Email comments prior to meeting: [council@highlandcity.org](mailto:council@highlandcity.org)

**7:00 PM REGULAR SESSION**

Call to Order – Mayor Rod Mann

Invocation – Mayor Rod Mann

Pledge of Allegiance – Council Member Kim Rodela

The meeting was called to order by Mayor Rod Mann as a regular session at 7:02 pm. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting. The prayer was offered by Amber Gardiner and those in attendance were led in the Pledge of Allegiance by Brian Gwilliam.

**PRESIDING:** Mayor Rod Mann

**COUNCIL MEMBERS**

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

**CITY STAFF PRESENT:** City Administrator/Community Development Director Nathan Crane, Engineer EIT Mike Burns, Planner & GIS Analyst Kellie Bronson, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Finance Director Tyler Bahr, Police Chief Brian Gwilliam, City Engineer Todd Trane

**OTHERS PRESENT:** Scott Hart, Wesley Warren, Nick Bayless, Penny Kilger, Peter Kilger, Ron Wells, Sara McGill, Amber Gardiner, Marshall Meier, Michael Storms, Daniel Schmidt, Ryan Hales, McKay Christensen

**1. UNSCHEDULED PUBLIC APPEARANCES**

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

Peter Kilger introduced himself, and informed them that he had prepared a sheet of information about the open space property that he and his neighbors hoped to purchase from the City. He noted that it had the endorsement of their neighbors, and expressed that they hoped to receive the City’s endorsement as well.

Sarah McGill explained that she was there with concerns about the Norton Athletic Facility that had started to hold regular Saturday night events. She noted that although the facility closed at 10pm, they had been holding dances until 11:45 pm. She expressed concerns with the noise and insufficient amount of parking. She explained that she lived across from Ace, and said that all through the night there was skateboarding, parking in the drive-throughs, and loud, bad behavior after the dances. She stated that it was very invasive. Ms. McGill said they had called Norton but did not get a response, and had also called the police but had no success. She noted that she had attended a Council meeting about a year prior that had a woman who wanted to have a reception center there, but was told she could not do it because of noise and parking restrictions. Sarah McGill asked the City Council to please enforce the code and to not allow them to become a dance and reception center after 10:00 pm.

Amber Gardiner introduced herself and relayed that she lived next door to Sarah McGill. Amber Gardiner echoed the concerns about Norton Athletic Facility events. She explained that they heard more of the honking, driving, yelling, and increased late night traffic than the loud music. However, she expressed that the townhomes behind the center probably heard the music much louder. Amber Gardiner also commented that every year her neighborhood had the curbs taken out for some reason on both entrances. She noted that it looked like they were about to start that again this year, and she said that every time they had a lake at the south entrance. She clarified that it was the two entrances at 10600 and 10900 across from the police station. She asked if they could put in a light while the curb was redone this year. She revealed that her daughter was in a really bad car accident there the previous year, and hoped that they could put in lights there as it was difficult to get out on Timpanogos Highway. She mentioned that the last time she had brought up the issue they had discussed taking out the median, but it was still there.

Michael Storms introduced himself and noted that he was also a neighbor in that area. He expressed the same concerns with the Norton events. He also noted that part of the fence on Alpine Highway had fallen over, and asked that the City repair it. Mayor Rod Mann asked him to call the City so they could put in a work order and get it scheduled. Mr. Storms also brought up concerns about the pressurized irrigation. He communicated that they would love to meet all of the watering requirements, but explained that it was difficult to get the necessary pressure to water when all of the neighbors had to water at the same time. He reiterated that he and his neighbors would really like to take those water times more seriously, but it was practically impossible for them to water at the same time.

Mayor Rod Mann explained that it was a pressure issue, and that one of the factors was that Highland used 6 acre feet per irrigable acre when they should be using 3. He said that the system was designed for 3 acre feet and not 6, and that there were still those who simply watered too much. He said that impacted everyone, despite the best efforts of those who took it seriously. He also mentioned that they planned to install meters in the next couple years to track usage.

Council Member Scott L. Smith asked for clarification about who owned the fence in question. Mayor Rod Mann answered that the City was responsible for them and was obligated to repair them. He noted that owners sometimes did it on their own, but reiterated that it was the City's responsibility.

Nick Bayless introduced himself and said that he lived in Viewpoint. He expressed support for the proposal to purchase the open space. He said that he was grateful for the City's service to residents. He outlined that there were three main reasons why the purchase made sense, and noted that he had messaged City Council about it. He briefly explained the topography of the area, and said that there were four homeowners unified and ready to make the purchase. Nick Bayless explained that the land was currently dirt, rocks, and weeds, and was therefore rather unsightly. He outlined that the three benefits were that it would beautify the neighborhood, remedy the safety concern of broken home windows caused by loose rock blown into them, and be up to the homeowners to mow and maintain instead of the City.

Ron Wells introduced himself and explained that he was also a Viewpoint homeowner. He echoed Nick Bayless' sentiments, and noted that he was in a very similar situation. Ron Wells said that he had lived there for ten years, and had tried to do the open space improvement a couple times but it had always fallen through. He hoped that the City Council would see that there was significant value to the homeowners to purchase the land. He also informed them that he had prepared a sheet and had given it to Kellie Bronson, City Planner.

Council Member Brittney P. Bills asked for clarification that the use of the Norton facility was zoned as a sports and fitness center. It was. She asked how they defined a sports and fitness center because dancing was a sport. She asked if there was anything that could be done about the dancing if it was an accepted use within the zone.

Planner & GIS Analyst Kellie Bronson explained that they were allowed to hold dances, but not after hours. The approved hours were 7am to 10pm. Council Member Brittney P. Bills asked if that was enforceable, and commented that it was important to clear up so they knew what the rules were for that area.

Michael Storms asked for clarification about what the noise ordinance required. Mayor Rod Mann explained that there was no decibel, and that it was subjective and based on if it disturbed the neighborhood outside of the open hours. Michael Storms relayed a story about the bass blaring late at night when he and his wife were trying to sleep. He explained that he had gone down to his insulated home theatre to get some sleep and could still hear the noise. He urged that the noise concern was a legitimate issue.

Council Member Kurt Ostler asked if it was a permitted type of use. Mayor Rod Mann explained that they could talk about it later.

Ron Wells had a quick follow up. He noted that on the list in the packet for that day there was a spreadsheet and table in regard to the open space. He said that there were two areas in viewpoint, 107 and 108, and he asked that they made it a little clearer when they posted it for the public.

## **2. PRESENTATIONS**

### **a. 2021 Highland Citizen Survey Results - Mayor Rod Mann**

Mayor Rod Mann presented the City survey that had been conducted in March. He outlined that it was a mix of online and paper, and that this year they had allowed anyone over 18 in Highland to take the survey instead of just one per household. The addresses of the participants were also verified to make sure that the sample was correct. He communicated that they had received 1270 responses, which was more responses than in the past. He explained that the mix of paper versus online was 55/45, and was moving slowly from paper to online over the years.

Mayor Rod Mann explained that one of the things they had noticed from the data was that all categories where they were rated on a service had gone up. He said that the quality of life had gone up from 3.5 over the last five years to 3.6 in the current year. He noted that there were still people who were not happy, but that most people that lived in Highland liked it.

Mayor Rod Mann showed the rating that was done for all the City services, and explained that it consistently went up. He noted that roads were still the least good service, but it had gone up since they started their road improvement plan. He hoped that the next year would be over 50% in the green. Mayor Rod Mann discussed data about staff and elected officials, and said that elected officials had improved since last year and that staff was viewed favorably in the community. He agreed with the assessment of staff, and expressed that they did a great job.

Mayor Rod Mann explained that they had also asked a number of questions about taxes in order to get a general consensus about how the residents felt. He noted that they would talk about the Recreation, Arts, and Parks (RAP) tax later on, but briefly explained that the RAP tax was a .1% add to their sales tax and was a levy they could put on local sales. Mayor Rod Mann noted that American Fork and Cedar Hills both used it as well. He explained that the money went directly to the City and could be used for recreation, arts, or parks. He also said that it was a tax that, if approved by Council, the voters would have to approve it in the fall.

Mayor Rod Mann stated that one benefit was that people who came to their City and used the splash pad would actually help pay for the splash pad with the tax. He said that it distributed the load of the parks rather than only taxing Highland specifically. He expressed that people liked the trails, but that there was no tax other than the RAP tax that was above 50% in the green. He said that it was possible that a RAP tax would come their way either this year or the next year, but in the end would be the voters' choice. He explained that it was a ten year tax and could be renewed once. He further explained that this meant it had an automatic sunset clause, versus property taxes which did not have sunset clauses.

Mayor Rod Mann discussed the decision made in December 2019 to sell some trails in the Wimbleton area as well as some open space. He explained that there were residents that did not like that and ran a referendum and got enough signatures. The rule is that they were required to put it on the next municipal election and had to wait one election cycle. Mayor Rod Mann further explained that the Council could overturn the decision, but wanted community feedback. He outlined three options on the table. First was the Council would rescind the decision, second was to go to vote in December, and third was they did not have enough information.

Mayor Rod Mann thought that it would go to the ballot, and they would provide information in a neutral format from the City and figured that residents would also weigh in. He requested that it not become contentious and there be no personal attacks, and rather just be an issue discussed based on the merits.

Mayor Rod Mann then addressed the question that had been about library services and what was desired. They had received a lot of support for gardening classes. He then addressed youth library services. People wanted programming classes and after school study help. He explained that most people had lived in Highland for 10+ years, and that most people came to Highland and stayed. Over three quarters of the survey results showed that people planned to stay more than ten years from now. Mayor Rod Mann expressed the opinion that Highland was a great place to live.

Mayor Rod Mann communicated that most of the homes in Highland were not in the northeast or southeast, and rather was congregated in the southwest and northwest. The general population was a little bit older and most did not have children at home. Mayor Rod Mann discussed the comparison from when they first started to do City surveys to now. He explained that although they had a big dip the last year, for the most part survey participation had increased. He reiterated that quality of life was rated well and was consistently growing. Elected official ratings had dropped in 2019, but were almost back to where they had been in 2018, and staff ratings had consistent improvements. The average age of respondents was getting older.

Mayor Rod Mann also outlined that everything took a dip in 2019, and that City services was pretty flat from 2019 to 2020. Public safety was good. For public works, roads had consistently gone up and had a big jump the last year. Mayor Rod Mann expected that if the road to Costco was fixed that would take another big jump. He explained that the only thing that held up the progress was property acquisitions. Mayor Rod Mann informed them that he was about a third of the way through responding to the 670 comments.

Council Member Scott L. Smith addressed the results that showed people were not happy with elected officials, and wanted to see comments about it to see how they could improve. Mayor Rod Mann responded that they would be on the blog in a month or so. He explained that people's comments were typically more motivated by a negative experience versus a positive one, but noted that it was mostly constructive criticisms.

Council Member Brittney P. Bills thanked him for all the work that had been done on this.

### **3. CONSENT ITEMS** (5 minutes)

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

#### **a. Approval of Meeting Minutes** *Administrative*

Regular City Council Meeting – March 16, 2021 and March 30, 2021

*Council Member Scott L. Smith MOVED that the Highland City Council approve consent items 3a. meeting minutes from March 16, 2021 and March 30, 2021.*

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

*The vote was recorded as follows:*

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

*The motion passed 5:0.*

### **4. PUBLIC HEARING: PLAT AMENDMENT - HIGHLAND FIELDS LOTS 6 AND 7** *Administrative*

The City Council will hold a public hearing to consider a request by Brandon Fairbanks to amend the Highland Fields Subdivision to combine Lots 6 and 7 located at 11664 and 11646 Highland Fields Drive. The City Council will take appropriate action.

Planner & GIS Analyst Kellie Bronson gave background about the combination of two lots. She showed the two lots over by Ridgeline Elementary, and explained that the original plat was approved back in 2014 by the City Council. She showed the amending plat, and said that it would be a total of 1.46 acres. She explained that there were no houses on either lot, or it was their understanding that they simply wanted to build a larger house. Planner & GIS Analyst Kellie Bronson expressed that staff recommended they hold the public hearing and approve the plat amendment subject to two standard stipulations.

Mayor Rod Mann opened public hearing at 7:42 pm. There were no public comments. Mayor Rod Mann closed public hearing at 7:42 pm.

*Council Member Kim Rodela MOVED that the City Council accept the findings and APPROVE Highland Fields Plat "B" subject to the two (2) following stipulations recommended by Staff.*

- 1. The recorded plat shall be in substantial conformance with the final plat received April 1, 2021.*
- 2. Prior to recording, the recorded plat shall be revised as required by the City Engineer.*

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

*The vote was recorded as follows:*

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

*The motion passed 5:0.*

## **5. SITE PLAN: HIGHLAND TOWN PLAZA WEST PAD** *Administrative*

The City Council will consider a request by Daniel Schmidt on behalf of WPI Enterprises, Inc., for approval of a Site Plan of a retail building located at approximately 5513 West 11000 North. The City Council will take appropriate action.

Planner & GIS Analyst Kellie Bronson informed them that this item was on the agenda for the Council meeting that took place on March 30th, and was continued to the current meeting. She explained that it was a request from WPI to receive site plan approval for the Highland Town Plaza west pad. She presented the vicinity map, and pointed out a yellow section on the west side. She explained that it was a part of a purchase agreement that was also requested and was another agenda item for the night. She stated that there were three parts to the development on the agenda: the site plan, the purchase agreement, and the final plat.

Planner & GIS Analyst Kellie Bronson provided some background on the topic. She communicated that it was in the town center overlay and needed to follow the architectural standards for the town center. She stated that it was designated as mixed use in the general plan, and the purchase agreement was the request to purchase approximately 2,433 square feet of Highland City land. She then showed the site plan and said that the lot was .899 acres, and the building was approximately 6,153 square feet. She explained that the main accesses came from SR 92 and Town Center Boulevard, and they would also provide 47 parking stalls for the site. She presented a general parking plan that showed that the code required at least 24 stalls.

Planner & GIS Analyst Kellie Bronson showed the traffic flow management plan drawn up by engineering. She noted that City Council had been sent an updated version via email, and that the draft was what was on the staff report. She said that the only change with the finalized version was a curb not being extended on the east side of the Fiiz building. She communicated that they still had the do not enter signs and stop signs that face east. She explained that the overall goal was to be able to implement Option A, which included a light being put at the intersection of 5600 West and SR 92. She informed them that the light was in UDOT's plan, and that they did not know when UDOT would put it in. Mayor Rod Mann clarified that WPI had no say in the light, and that Option A and Option B were simply the possibilities of what could happen. He summarized that their preference was Option A over Option B. Planner & GIS Analyst Kellie Bronson commented that part of Option A would include another access on 5600 West across Rocky Mountain Power (RMP) Land. She said that they had not received a response from RMP, and that it was a stipulation in the staff report.

Mayor Rod Mann clarified they would request an easement and not necessarily buy the land. Planner & GIS Analyst Kellie Bronson said a swath would be ideal because they had the strip of land right where Option B would be. She further said that they had the width of 24 feet which was the minimum roadway there. She reiterated that Option A was the goal. Mayor Rod Mann commented that there were some trade-offs they could make. Planner & GIS Analyst Kellie Bronson expressed that Option A would resolve a lot of the concerns and would be a long term solution. She listed that the short term solutions were the do not enter signs and stop signs, as well as striping south of Wendy's that the developer had agreed to put in. Planner & GIS Analyst Kellie Bronson also noted that the developer had an agreement with Wendy's to take out the existing island.

Planner & GIS Analyst Kellie Bronson noted that she had given information sheets out to them which included the traffic flow plan and the agreement written by WPI to send to Fiiz. She informed them that Fiiz had not officially signed an agreement, but had given indication via email that they would agree to the stipulations. Planner & GIS Analyst Kellie Bronson explained that the agreement basically said that the Fiiz employees and management would continue to handle the overflow stacking of the drive through to make sure they did not block the parking stalls. She further explained that the do not enter signs were intended to stop people who came through the east entrance and tried to cut into the drive through.

Planner & GIS Analyst Kellie Bronson then discussed the landscape plan, and she informed them that the developer had more than what was required for the percentage of landscape. She explained that they required a pedestrian access connected along SR 92. She then showed some elevations, and noted that when it was reviewed with the Planning Commission they added a stipulation that there would be an additional awning on the west side to have four sided design architecture.

Planner & GIS Analyst Kellie Bronson said that the appropriate notices were sent out for the meeting and they had received no written correspondence. There had been some concerns from tenants about traffic flow, and the developers and staff had been working with them over the last couple weeks. Planner & GIS Analyst Kellie Bronson noted that the developer met with the owner of Meier's that weekend, that they presented the traffic flow plan, and reiterated the point that Fiiz agreed to continue with the traffic management plans.

Planner & GIS Analyst Kellie Bronson said that the Planning Commission approved the architectural plans. She discussed that the seventh stipulation was the directional signage plan. They requested that they replace number seven with seven through 14, which was basically the traffic flow management plan. Number 11 was the extension of the curb, and the request was to remove that stipulation before approval. She also stated that with the motion it would be the 13 stipulations recommended by staff. She noted that property owner Dan Schmidt was present, as were the owner of Meier's and the representative from Hale's Engineering.

Council Member Scott L. Smith noted that Option A was preferable, and he asked for clarification that the Option B property behind the development and next to the substation was City owned property that they would maybe trade for something. He asked how that process would work.

Planner & GIS Analyst Kellie Bronson explained that the City owned the parcel where Option B would be. She communicated that it was the one with the purchase agreement. She said that they would look into making it a road unless they obtained the property from RMP. Council Member Scott L. Smith thought that UDOT had already nixed that. Planner & GIS Analyst Kellie Bronson said that they would work harder on it to try and get a commercial access from it. She explained that they had not spoken with UDOT as a City to get it to become commercial. City Engineer Todd Trane came up to better explain it.

City Engineer Todd Trane explained that the B road was their current access to well five, which sat next to Meier's on the west side. He said that they had always accessed off of SR 92 for the well house, and they had a 12 foot driveway. He further explained that the problem was that patrons of the area had started to use it to get in. He noted that they had to put up barricades because it was dangerous, and he expressed that they ultimately wanted to improve it. He said that they had approached UDOT jointly to see what the options were. They turned them down, but that was prior to the new site development. City Engineer Todd Trane reiterated the previous sentiment that they wanted to get Option A, and that they would continue to push the plan to get one or the other. He communicated that it currently presented a safety issue. He said that there were some options that they were working on.

Council Member Kurt Ostler asked if the access was only a service access granted by UDOT. City Engineer Todd Trane said that was correct, and that once they came in and said they wanted to improve it, UDOT rejected their access because it was no longer just for the well. City Engineer Todd Trane explained that UDOT wanted

them to eliminate the driveways, but expressed that they were required to let Highland continue use because the driveways were existing. City Engineer Todd Trane further explained that once they changed the use, UDOT could put the requirements on them.

Council Member Kurt Ostler asked if they could work with RMP to give them an access in Option A. City Engineer Todd Trane noted that they were currently waiting for a response from Rocky Mountain. Mayor Rod Mann mentioned that they did a traffic count last time, and he confirmed that it had not met warrants. He asked if City Engineer Todd Trane ever saw that happening. City Engineer Todd Trane said that he could see Town Center becoming a light in the future. He said that it depended on where people would go, and said that they were at UDOT's mercy. He acknowledged that the City understood it was an issue and was trying to come up with solutions to make it better for everyone.

Council Member Kurt Ostler mentioned that on the proposal if A and B were granted, the developer would take on the responsibility for road installation and maintenance.

Council Member Brittney P. Bills asked if it made more sense to figure out the solution before they approved something and sold the parcel. City Engineer Todd Trane answered that they technically met code right now already with the sliver of land being purchased. Council Member Brittney P. Bills asked if it would make sense to not sell the sliver of land until they had a plan.

City Engineer Todd Trane answered that the developers had proposed changes that would make circulation and parking better, and he did not want to get in the middle of that. He explained that as the City Engineer what he did was review and approve based on the code. He stated that the current plan from the developer met code.

Council Member Scott L. Smith acknowledged that they met the code and said that he was supportive of commercial. He expressed the concern that they would have a traffic mess if neither A nor B worked out. He said that he wanted to have some reassurances from RMP.

City Engineer Todd Trane replied that RMP would take time, and they did not know if or when they would get approval. He said that they probably had a better chance with UDOT for Option B. He noted that they would still have to work with RMP to consolidate one of the driveways. City Engineer Todd Trane reiterated that they had reached out as the City to RMP.

Council Member Kurt Ostler asked City Engineer Todd Trane if he thought they had a better chance of getting Option B than Option A. City Engineer Todd Trane said that at this point the City held the cards because it owned the property for B, and that they just needed to get approved with UDOT. Council Member Brittney P. Bills asked about the time frame. City Engineer Todd Trane said it would take months to negotiate and get one of the options.

Council Member Kurt Ostler asked what the City's best leverage was. City Engineer Todd Trane said that the topic today was about the sliver of land being sold to make the site work. Mayor Rod Mann asked if there was anything the City wanted them to do that they haven't done. City Engineer Todd Trane said that they did not know if A was an option, and that it was staff thinking outside of the box to try and help the commercial development.

Council Member Kim Rodela asked what the developer's time frame was, and how it would affect them if the City Council held off on this until they got an answer from RMP.

Daniel Schmidt noted that Ryan Hale from Hale's engineering worked closely with UDOT to review all of their plans as an independent third party, and he was also the developer's consultant. Daniel Schmidt said that Ryan Hale had a good feel of the warrants for when things were needed or not.

Daniel Schmidt said that when RMP or UDOT said no, it really meant not today. He explained that when there was new information they would have a better chance. He stated that the sliver of land only affected the drive through capability of the building, and the drive throughs actually facilitated traffic in and out of the properties opposed to parking. He communicated that they would still elect to move forward with the building without the drive through. He further communicated that the owners of the property on both sides believed that the traffic plans would work in conjunction with it, and the conscientious management approach with Fiiz would also work with or without the drive through.

Council Member Kurt Ostler asked what would happen to the project if they waited for 60 days to get better information from UDOT or RMP. Daniel Schmidt responded that they had tenants that were ready to go contingent on plans. He said that they can't afford to wait 60 days with all of their commitments and they were ready to move forward.

Marsh Meier expressed that he liked the plan, but said that it was predicated on whether they could get Options A or B, otherwise it would put a lot of condensed traffic in the dead end section. He also stated that the curb that came in from Wendy's was really tight, and opening the curb a little wider to make the entrance wider would be beneficial. He communicated that if they could not get A or B it would just complicate traffic problems.

Council Member Kurt Ostler asked about the Arctic Circle parking and whether it choked down parking in that area. He acknowledged that the island by the Wendy's would be removed, but asked if Marsh Meier had any concerns about flow.

Marsh Meier said that there were really no road markings currently, and he thought that striping might help. He noted that they needed to be careful of the condos where people parked RVs and trailers that created some problems.

Council Member Kurt Ostler asked for clarification that the problem would just be compounded if they did not get A or B.

Marsh Meier confirmed, and said that it was currently difficult for people to get in and out for all the businesses. He stated that while businesses grew, the traffic increased, and so did the traffic problems.

Mayor Rod Mann asked if the new parking arrangements would make it more difficult for people to park RVs and trailers there.

Daniel Schmidt stated that they had been working closely with HOA to close that gate. He explained that the access was only supposed to be for emergency access, and that they would stripe the curb red along the west side to indicate no parking. He said that striping would not provide much if any room for RV and trailer parking. He noted that they had an agreement with Wendy's to do that, and expressed that they would do it with the north portion now. He stated that staff had been there every two hours increments on alternating blocks each day to look at the stack in the Fiiz drive through to get data on traffic overflow. Daniel Schmidt informed them that in the last week it had overflowed three times, and out of those times it went to a total count of eight and nine cars. He said that the provided stacking was a total of eight, and so they only had one or two cars in transition. He also noted that Fiiz employees were already out there to manage the overflow.

Council Member Brittney P. Bills commented that the car stacking was mostly on Wednesdays when high school kids did not have school. She asked City Attorney Rob Patterson to explain what they were required to approve or not. She expressed that she was pro-business and pro-drive through, but wanted to respect the businesses they had.

City Attorney Rob Patterson replied that their proposal would meet the code for commercial building on the lot. He explained that the City was obligated as an administrative matter to approve it. He further explained that the issue came up because they also wanted to build a drive through, which was dependent on the City Council's decision as a legislative matter to sell them the sliver of property. City Attorney Rob Patterson noted that they did not need the piece of property to build the building to code. Therefore, they wanted approval so they could build the building even without the drive through, and then build the drive through later on if possible. He expressed that they had met all of the requirements, and they were entitled to build a commercial building in that area with or without the drive through. He stated that the City Council had to approve the plan, but did not have to sell the strip of land.

Council Member Kurt Ostler commented that the site plan showed a drive through, and asked if it mattered that they did not have a plan as a building only.

Planner & GIS Analyst Kellie Bronson explained that there was a stipulation that if the City Council did not approve the sale of the strip of land then the site plan would be adjusted to not include the piece of land and the developer would not have a drive through.

City Attorney Rob Patterson said that they could approve it with or without the drive through. He said that if they had the property they would build the drive through, and if not then they would not build a drive through.

Council Member Kurt Ostler asked for clarification again that the City Council had to approve it because it met code.

City Attorney Rob Patterson confirmed.

Council Member Brittney P. Bills asked if they could theoretically build a smaller building with a drive through without the sliver of land. City Attorney Rob Patterson said potentially, but it might be less advantageous to them.

Daniel Schmidt informed them that they expected four tenants, but the building could fit up to five. He stated that they provided up to twice the required parking so it was not a parking issue. Rather the traffic issues were isolated incidents in regard to the management of the Fiiz drive through. He said that there was nothing wrong with the site design itself or the flow of traffic, and rather management of the drive through. He expressed that they had done whatever possible at their own expense to do the best by everyone, and acknowledged that the over stacking of parking was a difficult conversation to have.

Daniel Schmidt recognized that it did impact everyone and said that they were not trying to be inconsiderate. He expressed that they were interested in Marsh Meier's success as well as their own. Daniel Schmidt noted however that the issue would affect his own tenants more than others. He commented that if the Meier's customers parked on the east then there would not be any problems or conflict with the drive through. Daniel Schmidt explained that they were not requiring that to happen, and noted that they had cross-parking agreements. However, he stated that each parcel was required to have their own parking sufficient for their uses.

Daniel Schmidt reiterated that they had provided parking, and always overparked in consideration of consumers and to attract tenants. He reiterated that they meant no disrespect, and stated that they had done everything they could do to manage the situation. They believed that it was an isolated incident, and the discussions that consistently reoccurred was how to effectively manage an extreme situation. He noted that Fiiz would be opening their lobby on June 1st, and with the lobby being opened that was only 15-20% of their sales versus the drive through.

Daniel Schmidt explained that ten cars would stack two on the outside, and opening up the lobby would automatically reduce that in a month. He said that if an overflow should occur before that, they had statistically noticed that there were only isolated incidents through the week other than on Wednesday. He also said that they believed it was an isolated and seasonal effect with the pandemic. Daniel Schmidt reiterated that they had provided more than two times parking across the entire site, and that they had adequately conducted ten businesses there without problems.

Council Member Brittney P. Bills acknowledged that they were not trying to cause problems and that they wanted all of the businesses to succeed. She expressed that the City Council was not trying to cause them problems either and that it was not personal. She said that they liked to protect the businesses they had.

Council Member Scott L. Smith commented that they had a few citizens complain about the performance center. He said that he had questioned why not have the parking in front instead of behind, and he was told that it met code so they had to go for it. He said that was unfortunate because it caused nothing but problems since. He expressed that without A or B they had no problem with it, but without it he had some concerns. He felt that it seemed like they would simply create another problem just because it met code.

Daniel Schmidt said that they could not guarantee A or B, but guaranteed that they would continue to work on it. He noted that they paid to explore Option B at their own expense, and that was the original plan when the land was surplus in 2013. He explained that when they got together with staff they identified that Option A was a better option, and there was a stronger desire and likelihood of having a traffic light at 5600 West. Daniel Schmidt assured them that they would continue to work on it.

Mayor Rod Mann said that it was two separate decisions. He stated that first was the approval of the site plan, and the second was the property sale.

Ryan Hale from Hales Engineering introduced himself. He explained that when they had looked at the site, Option A was a great option. He noted that in reviewing a recent warrant study that had been completed there, it did not quite meet the warrants of 5600 West. He made it clear that he did not and could not speak for UDOT, and he could not commit to anything. He stated that as far as the warrants being met, if the A road did extend to 5600 West they would have more traffic that went out and they would likely meet the warrants. He expressed that it was a bit of a double edged sword. It was a great improvement. Ryan Hale said that there were a lot of good options, and that if they could get Option A that the signal would come sooner.

Council Member Kim Rodela acknowledged the concerns with both not having assurance of Options A or B, and with regards to the tenants. She said that for the latter they could potentially lose a tenant and the City could potentially lose a drive through. She expressed that they needed those in Highland, and those potential losses were a concern for her.

Council Member Kurt Ostler pointed out that the property owner had come in good faith. He agreed that in order to get the drive through they needed to purchase the sliver of property. He said that the property owner was entitled to build the building, and the question for the Council was whether they wanted to sell that sliver of property. He expressed the concern that the urgency of Option A would dissipate if they approved this. He also expressed concern that if they did not approve it would be more anxious to negotiate. He said that it was difficult because they did not know what RMP wanted to do. Mayor Rod Mann mentioned a previous statement that they would trade RMP with the City owned land. Council Member Kurt Ostler questioned if they would have to maintain the road if they traded that.

Mayor Rod Mann said that in either option, the developer would build and maintain the road. He said that if they swapped there was no harm to the City, and that it was better for everyone. He expressed that ultimately it was a City Council decision.

Council Member Brittney P. Bills asked if the letter with WPI was a legal contract that was enforceable. Daniel Schmidt responded that the letter was a cooperative agreement, but noted that the teeth were in the lease agreement they had with them. Council Member Brittney P. Bills asked how easy it was to retrain customers to park differently. She questioned if the education and signage was enough to solve the problem. Marsh Meiers responded that they could try with the education. He said that stop signs and a widened entrance to the shopping center would hopefully help. Council Member Kurt Ostler asked about the emergency vehicles that came for lunch and where they would park.

Marsh Meiers commented that one of the biggest complaints from his customers were those who parked in front of the store. When the traffic backed up, those people could not back out and sometimes had to wait up to 20 minutes. Council Member Kurt Ostler asked if that had happened within the last month. Marsh Meiers said it continued into the summer.

Council Member Brittney P. Bills said that it seemed like there were not a lot of options.

*Council Member Kurt Ostler MOVED that the City Council accept the findings and APPROVE the site plan for Highland Town Plaza West pad subject to the thirteen (13) following stipulations recommended by the Staff.*

- 1. Development of the site shall comply with the site plan and building elevations dated March 1, 2021 except as modified by these stipulations.*
- 2. All signage shall require a separate permit and meet the requirements of the Development Code.*
- 3. Final civil engineering plans shall be reviewed and approved by the City Engineer. The site shall meet all requirements of the City Engineer.*
- 4. The site plan shall include a pedestrian connection from SR 92 to the building entrance. Said access shall be a minimum of five (5) foot concrete path.*
- 5. The site plan shall be modified to exclude the City property if a purchase agreement is not approved by the Council.*
- 6. A canopy to be added on the west side of the building.*
- 7. The developer shall work with the City on the future light signal on 5600 W and potentially on Highland Town Blvd.*
- 8. The developer shall pave and maintain any additional access approved by Rocky Mountain Power or UDOT west of the proposed building pad (5600 West access or Timpanogos Highway access with right-in-right out)*
- 9. City Staff will communicate with Rocky Mountain Power to request an access across their land to connect to 5600 West.*
- 10. The developer will install a new parking configuration south of Wendy's with striping only for parking stalls and south-end landscaping islands. South-end landscaping islands will be installed when Pad 3 is constructed.*
- 11. An east facing "do not enter" exit-only sign and curbing will be installed on the east side of the Fiiz building parking.*
- 12. Stop signs will be installed and striping will be painted on the Fiiz exit in front of Meier's east access (west facing).*
- 13. The developer will work with Fiiz management to continue to manage drive thru stackings to not block parking in front of buildings.*

*Council Member Kim Rodela SECONDED the motion.*

*The vote was recorded as follows:*

*Council Member Timothy A. Ball Yes*

*Council Member Brittney P. Bills Yes*

Council Member Kurt Ostler      Yes  
Council Member Kim Rodela      Yes  
Council Member Scott L. Smith      Yes

*The motion passed 5:0.*

**6. RESOLUTION: DECLARATION OF SURPLUS PROPERTY** *Legislative*

The City Council will consider a request to declare 2,433 square feet of property surplus for the purpose of selling the property to WPI for a commercial retail building. The Council will take appropriate action.

Planner & GIS Analyst Kellie Bronson reviewed a mini presentation to clarify the process. She explained that the action item for that night was to declare it as surplus property. She stated that they needed to hold a public hearing which would be held at the May 4th City Council meeting, and the official approval of the purchase contract would also be on May 4th. She said that the contract would be legislative as well.

Council Member Scott L. Smith asked if they could just continue this until they knew if they would get cooperation from RMP or UDOT. Mayor Rod Mann clarified that the action here was to say they would surplus it, and the intent was to put it on the May 4th agenda.

Planner & GIS Analyst Kellie Bronson said that they could do all three items on May 4th as long as it was done chronologically.

Council Member Scott L. Smith said that he wanted to know if they had Option A or B.

Council Member Brittney P. Bills asked for clarification that there was no harm in it being declared as surplus property. City Attorney Rob Patterson confirmed. He recommended to Council that they at least approved the surplus process. He said that he recommended that because of timing, so that the hearing was not delayed. He noted that they could delay it, but if it was something they wanted to get resolved quickly it would only delay every Council meeting.

Council Member Kurt Ostler asked if they surplused it then it would set WPI up a little closer to move forward. City Administrator/Community Development Director Nathan Crane said that they had a very specific process the City had to go through to surplus property. They had to declare it a surplus, adopt a resolution, and hold a public hearing.

Council Member Brittney P. Bills said that it made sense to declare it tonight. City Administrator/Community Development Director Nathan Crane said that they had to do the resolution before they could actually sell it.

*Council Member Kurt Ostler MOVED that the City Council approve the Resolution declaring 2,433 square feet of public property surplus for the purpose of disposal.*

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

*The vote was recorded as follows:*

Council Member Timothy A. Ball      Yes  
Council Member Brittney P. Bills      Yes  
Council Member Kurt Ostler      Yes  
Council Member Kim Rodela      Yes

Council Member Scott L. Smith No

The motion passed 4:1.

## **7. MINOR SUBDIVISION FINAL PLAT: HIGHLAND TOWN PLAZA SUBDIVISION** *Administrative*

The City Council will consider a request by Daniel Schmidt on behalf of WPI Enterprises, Inc., for approval of a proposed 3-lot subdivision located at approximately 5513 West 11000 North. The City Council will take appropriate action.

Planner & GIS Analyst Kellie Bronson stated that this was the last item for this development. She explained that the request of the final plat for this subdivision encompassed what was in the red, and was three separate lots. She further explained that they were simply making the current site plan approved into a lot and then planned to reorganize a bit. Planner & GIS Analyst Kellie Bronson pointed out all three lots. She stated that staff recommended that City Council accept the findings and approve the proposed plat with the included stipulations.

*Council Member Kim Rodela MOVED that the City Council accept the findings and APPROVE the Highland Town Plaza Subdivision plat subject to the four (4) following stipulations recommended by the Planning Commission and the additional two (2) following stipulations recommended by staff.*

- 1. The recorded plat conforms to the final plat date stamped March 1, 2021 except as modified by these stipulations.*
- 2. All public improvements shall be installed as required by the City Engineer and City Fire Marshall.*
- 3. The civil construction plans shall meet all requirements as determined by the City Engineer.*
- 4. Lot 1 shall be modified to exclude the City property if a purchase agreement is not approved by the Council.*
- 5. An easement be added over the water line to be moved to the east of Lot 1.*
- 6. A fire hydrant to be added on the southeast corner of the building for access to the water line.*

*Council Member Timothy A. Ball SECONDED the motion.*

*The vote was recorded as follows:*

*Council Member Timothy A. Ball Yes*  
*Council Member Brittney P. Bills Yes*  
*Council Member Kurt Ostler Yes*  
*Council Member Kim Rodela Yes*  
*Council Member Scott L. Smith Yes*

*The motion passed 5:0.*

## **8. FINAL PLAT: TEN SEVEN HUNDRED (PREVIOUSLY APPLE CREEK)** *Administrative*

The City Council will consider a request by McKay Christensen for Final Plat approval of Ten Seven Hundred, a proposed 42-lot attached single family subdivision with one parcel for future commercial development. The City Council will take appropriate action.

Planner & GIS Analyst Kellie Bronson showed the vicinity map and final plat for Ten Seven Hundred, previously known as Apple Creek. She clarified that the final plat was changed from before. The commercial district was now two lots recorded to ensure they had the office pads on the plat. She noted that the phasing had been a little

confusing. She said that the developer had decided to put all of the residential construction in one phase, which would include brownstone parking, fire turn around emergency access, and parkway detail along Alpine Highway.

Planner & GIS Analyst Kellie Bronson outlined that Phase 2 was commercial, and it included the Alpine Highway access and roads into the commercial district. She stated that commercial was contingent upon tenants submitting site plans. She informed them that McKay Christensen was present. She said that staff recommended that City Council accept the findings and approve the final plat subject to the five stipulations.

Council Member Scott L. Smith noted that there was a big difference in phasing from the preliminary plat approval. He asked for the reasoning behind that. McKay Christensen responded that it became a function of mobilization. He said that the market was really good right now, and that they might as well put the road in.

Council Member Scott L. Smith asked if the commercial was now pushed further down the road.

McKay Christensen explained that the only adjustment being made was that they had originally broken up the residential into phases. He said it was really only broken up into two phases instead of four. He further said that if anything it would actually accelerate the commercial because they would be putting in all of the residential infrastructure. He explained that one of the other reasons they had done that was because they realized they would have to loop the water system. McKay Christensen visually showed where the original phases had been split, as well as everything that would go into the first phase now. He reiterated that it would not slow down the commercial phase, rather it may accelerate the process.

Council Member Kurt Ostler said that as the phasing changed, he had some safety concerns about the second access that was supposed to come in phase two. McKay Christensen said that what they planned now was to do a temporary cul-de-sac which would facilitate fire, and he noted that the temporary turnaround met code.

Council Member Scott L. Smith asked why they could not build it in. McKay Christensen said cost. He explained that rather than coming up and stopping, they would now carry all of the infrastructure on the front end while they went through and sold each one. He communicated that it was like a revolving line of credit, and they would have to sell each home in order to pay off the improvements. Council Member Scott L. Smith asked for clarification that they would not put the access to SR 74 until they did the commercial. McKay Christensen confirmed.

Planner & GIS Analyst Kellie Bronson noted that Chief Thompson did review the plans and asked that they had enough room for access and fire turnaround.

Council Member Kurt Ostler asked City Engineer Todd Trane if there was concern with having 42 units and the cul-de-sac.

City Engineer Todd Trane explained that they had done similar situations with temporary turnarounds. He said that what they should probably do was build part of the asphalt parking area so they had a turnaround and make sure it was on the plat.

Council Member Kurt Ostler asked if they needed to include the discussed topics in the motion if they approved something tonight. Planner & GIS Analyst Kellie Bronson replied that they were stipulations in the staff report.

Council Member Kurt Ostler asked if the plan was for two units. McKay Christensen said yes. He explained that each one was an individual lot. He said that they had some that shared a common wall, but not any more than two units. He stated that if possible they would prefer to do them all as free-standing and detached. Planner &

GIS Analyst Kellie Bronson said that the note on the plat and the stipulation was no more than two units attached. Council Member Kurt Ostler asked if the two car garage was for a single unit or a shared garage.

McKay Christensen answered that every unit had a two car garage plus an additional stall. He said that this was exactly what was approved with the PD application, two car garages with ten extra stalls.

Council Member Kim Rodela noted that had talked about timing with the parking on residential, and she asked if he had any concerns with doing all the residential at first and not having the parking.

McKay Christensen said he did not anticipate it being an issue because they hoped that the absorption on the units was quick. He noted that it could be 12-24 months before they absorbed all of the units. He said that they had enough time and did not think that parking would be a problem when commercial came in. He informed them that they had already started work in the commercial and that they had been working with tenants. He noted that they did not want it to sit, and they were consistently working on it to make sure those concerns did not happen.

Council Member Kurt Ostler asked if Marcia was still involved in it. She was. Council Member Kurt Ostler said he was curious about the design, and thought that the design of the garages was unique.

McKay Christensen explained that they could have built over the garage, but did not want them to look like 90 foot long milk cartons. He said that if they built them straight back as a rectangle they would not have any variation in elevation. He thought that this would break things up better so they did not have stacked blocks.

Council Member Scott L. Smith expressed appreciation for McKay Christensen having worked hard to make this a project that worked for the City. Council Member Scott L. Smith said that he had a hard time when the City attorney tells them that they *had* to improve, even if they did not necessarily want to. Council Member Scott L. Smith further said that he had not heard anyone in the City yet who really liked the high density in the center of the town, and he noted that there were a lot of worries about traffic. He expressed that he had a hard time because he was not always confident that they made the right decisions when looked at from the perspective of future ramifications. People held the City Council responsible, but at the same time they did not really have a say in the matter. Council Member Scott L. Smith expressed frustration with that, and reiterated that there was a lot of concern about density in the center of the City.

McKay Christensen acknowledged that City Council was in a difficult position. He said that as they developed, he hoped that people would recognize the major concessions that were made at the request and insistence of the City Council. He also said that as they developed the open space and the quality of the development, each unit was anticipated to be 600-700K. He said that it pushed the cost per square foot, and he felt that it helped the people in the immediate area. He anticipated that people would feel a lot better about it after it was completed, and hoped they would recognize the quality.

Council Member Scott L. Smith asked if the two homes on SR 74 would be demolished right at the start. McKay Christensen said it was likely that they would be. He said that they wanted the face of the project to project well from SR 74 as they began to develop.

Council Member Kurt Ostler asked if there would be a master bedroom on the main floor. McKay Christensen said yes. He explained that there was a master on the main on one of the three. He expressed that they tried to get all of the units with three bedrooms an office and sometime of vaulted space in the units themselves. He said there would be an unfinished basement which would add another bedroom and rec room downstairs. He communicated that the smallest unit started at about 2400 square feet, and the other units were about 2500 to 2600 square feet. With the basement they were at about 3400 to 3600 square feet.

Council Member Kurt Ostler supported the large lots, and thought the variety was good and important. He brought up some comments that had been made that called Highland elitist because they wanted large lots. Council Member Kurt Ostler felt that this high density and open space would be beneficial, and he wanted to see the vision as it came forward.

McKay Christensen commented that Highland had one of the highest median incomes in the state, and as the population aged they still wanted to stay. They just needed a home on an easier lot.

Council Member Kurt Ostler and McKay Christensen chatted briefly about housing costs.

Council Member Brittney P. Bills asked if they had an obligation with the moderate income housing. City Administrator/Community Development Director Nathan Crane said that they did their report last year and would do another one this year. Council Member Kurt Ostler noted that the state had been focusing on accessory apartments.

*Council Member Kurt Ostler MOVED that the City Council accept the findings and APPROVE the Ten Seven Hundred final plat subject to the five (5) following stipulations recommended by staff.*

- 1. The final plat shall be in substantial conformance with the final plat received March 25, 2021.*
- 2. The final plat and final civil engineering plans shall be reviewed and approved by the City Engineer. The site shall meet all requirements of the City Engineer.*
- 3. All required public improvements shall be installed as required by the City Engineer and City Fire Marshall.*
- 4. For Parcel A—the commercial district—the parkway detail along Alpine Highway will be installed and constructed as the units are constructed.*
- 5. The parking for the brownstone units will be included in the recorded plat.*

*Council Member Kim Rodela SECONDED the motion.*

*The vote was recorded as follows:*

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

*The motion passed 5:0.*

## **9. DISCUSSION: REVIEW OF OPEN SPACE AND ORPHAN PROPERTY FOR DISPOSAL** *Legislative*

The City Council will review the open space and orphan property for disposal. This item is being presented for discussion and direction only.

Mayor Rod Mann reviewed salability criteria. He explained that the process would be that they talked about the list of properties, leave the discussion open, and then vote on in 30 days after that. He said that they would put out on the table what was being done, let people submit additional requests, and then go through the list at the next meeting and do a surplus resolution at that time.

Mayor Rod Mann showed the list of over 200 properties owned by the City that could be sold. He explained that staff had gone through and determined which ones could be sold and applied the criteria to them. They came up with seven properties that could be sold. He explained that as a basis for setting a price, they went and picked properties adjacent to saleable land, took the County price, and used a 25% formula to land at 2.74 per acre. He noted that it would be updated every year after the County appraisals came out.

Council Member Kurt Ostler asked if these parcels were unbuildable. Mayor Rod Mann confirmed.

Mayor Rod Mann outlined the various properties.

10A Wolfcrest Hollow: Mayor Rod Mann explained that this property had a sewer line that went through it. They felt that if the property owner to the south wanted to purchase it then the City was willing to sell it to them.

10B Wolfcrest Hollow: Mayor Rod Mann explained engineering looked into this property and there were no encumbrances. He said that the west side was available for sale. He explained that there was a narrow corridor that headed east and curved, and those had all been bought.

#35A Canterbury North: Mayor Rod Mann explained that this property had an existing trail that led onto the Murdock trail. He stated that other than that trail, everything else would be saleable to residents.

#35B Canterbury North South and East: Mayor Rod Mann stated that three homes could buy this property. There was no trail so it could be sold. Council Member Kurt Ostler wondered about the access to Workman property. Mayor Rod Mann speculated that they could have them use the road or sidewalk to get to the trail. He said that right now there was nothing there. Council Member Kurt Ostler said that he was concerned about road and trail access.

#35D Canterbury North: Mayor Rod Mann explained that this was a little piece of property on the side of the home. He said that it looked like it belonged to the home, and noted that they actually had a fence there.

#108C View Pointe Native: Mayor Rod Mann communicated that the areas in blue were the pieces that were saleable on the south end. He stated that to the north was a trail, which was not saleable. He stated that it added up to 1.6 acres. He explained that the contingency with this was that everybody had to buy from the west side to the east side. He said that they would start on the east and they would all have to buy in sequence. If somebody did not, then that was where it would end.

Council Member Brittney P. Bills inquired about whether they had three or four buys on the east side and one or two on the west. Mayor Rod Mann said that they could not create an orphan parcel. Council Member Brittney P. Bills asked for clarification that they could only sell the ones on the end on the east side or the ones on the west side, but not both. Mayor Rod Mann clarified that they had to start on the east and had to sell consecutively going west.

Council Member Kurt Ostler asked if an adjacent homeowner would be allowed to buy if one of the homeowners in question could not purchase the land. Mayor Rod Mann said that they could make that determination. Council Member Scott L. Smith asked how many total lots could be sold. Mayor Rod Mann said seven. Council Member Brittney P. Bills asked if the only problem on the west side would be that they would not have access. She asked if they were able to give Josh access, if they could sell the west one on the corner individually. Mayor Rod Mann said they just had to have access.

City Engineer Todd Trane said that as the City Engineer he struggled with this piece. He stated that it was right at the top of the steep hill where they had constant issues with vegetation and watering. He said that he did not have a problem with selling some of it. He noted that four or five had already encroached. He said that they were

watering the property they did not own. City Engineer Todd Trane expressed that he did not think he wanted them to purchase all the way to the hill. He stated that it would be nice to maintain some sort of a flat area to keep them away from the slope. He thought that they should start with the east side and see how it went.

Council Member Brittney P. Bills commented that she had talked to the property owners a lot. She said that the four on the end were ready to purchase, there were three with maintenance agreements, and then the last one also wanted to purchase.

City Engineer Todd Trane said that he did not have a problem selling off a little bit, and acknowledged that they did not have backyards which was the reason they had encroached. He explained that he did not want to see the entire thing be irrigated because they already pumped culinary water up there. He expressed that in an environment where water usage increased while water sources produced less, he felt nervous about the addition of all the irrigated acreage that would be added there.

City Engineer Todd Trane's recommendation was to have some kind of buffer between the edge of the hill and the property line that they eventually sold. He felt that they should just sell off what they encroached on. He recommended that they meet in the middle somewhere to preserve the slope, and to control water usage and erosion on the hill.

Council Member Brittney P. Bills said that it was difficult to look at those first four that wanted to purchase, and then the next three who did not want to purchase but used it in the same way. She stated that they had a problem with encroachment, and when she had gone out there she was surprised at how many people had come out to talk to them. She acknowledged how hard Josh's job was when they had encroachment, trampolines, swing sets, and similar items.

Council Member Kurt Ostler noted that the maintenance agreements were renewed annually. Planner & GIS Analyst Kellie Bronson said that by the code, the maintenance agreements were good for ten years. If the contract was not renewed after that, the Council had the freedom to opt out of it.

Council Member Kim Rodela thought they could not have a maintenance agreement on saleable orphan property. Planner & GIS Analyst Kellie Bronson clarified that the requirement was if it was not saleable. Council Member Kim Rodela asked how long they had had maintenance agreements in View Pointe. Planner & GIS Analyst Kellie Bronson was unsure. Council Member Brittney P. Bills asked if there was a process to grandfather ones that already had maintenance agreements. She also asked what, if any, City liability issues there were for encroachment.

City Administrator/Community Development Director Nathan Crane stated that grandfathered agreements were a decision that would be up to the City Council. He expressed that they felt that they could renew them if the property was not saleable when they came up.

City Attorney Rob Patterson said that people who encroached without permission were considered trespassers, and therefore had no duty to them. However, he explained that it became a bit fuzzier when the City became aware of the encroachment and did not do anything about it.

Council Member Scott L. Smith asked Council Member Brittney P. Bills if the three with maintenance agreements said that they would never buy the properties.

Nick Bayless introduced himself, and stated that his house was the third one over from the east side. He noted that the fourth home over had a maintenance agreement. He also informed them that he personally did not have any maintenance agreement or encroachment on his property. He explained that there were a couple people who did not see any need to purchase it because they had the contract. He further explained that there were two

homeowners who would buy if everyone did it. He communicated that this was at the previous price of \$1.45. He expressed that there were a couple of homes that may not do it because it was a higher price now than before. He stated that he personally felt the price was fair.

Nick Bayless noted that although there were some people who were technically considered trespassers because of encroachment, those people currently used water. He expressed the opinion that the City could sell that land to get some amount of revenue. Mayor Rod Mann clarified that they did not pay for water because the City charged by square foot of property owned. Nick Bayless said that if they allowed for the purchase of that open space that the City could actually charge more for the water. He asked if there were any plans that would change. There was not.

Nick Bayless also discussed the erosion and development close to the edge. He recognized the concern there. He explained that the property sloped back, there was a berm two to three feet tall, and then south of the berm towards the slope was up to 20 feet before the slope. He expressed that if there was some concern about that, he felt that allowing purchase all the way up to the berm would be a good delineation. Council Member Scott L. Smith commented that the advantage was that they could fence it.

Council Member Kurt Ostler said that if the lot became larger it became more marketable. He expressed the opinion that \$2.74 was a killer buy. Council Member Kurt Ostler talked about the property line in the back where some had very minimal backyard. He asked how much square footage Nick Bayless had. Nick Bayless responded that he had 15 to 20 feet.

Council Member Kurt Ostler asked what the required setbacks were. He said that the two concerns were erosion and culinary water.

#108D View Pointe Native: Mayor Rod Mann said that this was the Kilgore's. Council Member Kurt Ostler asked if maps had been shown to the property owners. Mayor Rod Mann said yes.

Mayor Rod Mann commented that they had not spoken to anyone else other than View Pointe about the sale of property.

Council Member Scott L. Smith noted that the Apollo Circle showed up in one of the properties on the map. He said that it was already surplus back in 2013, and there was an issue with a waterline in there. He mentioned that he had received emails from people on the south side who were interested in the purchase of the land. Council Member Scott L. Smith said it was not one of the ones that was discussed, but it was in the packet. He also pointed out the #79 and #75 maps. He said that they had surplus everything west of the trail in 2018 in the #75 map. He was curious why these maps came back into the discussion since they had already been surplus. He thought it was interesting that people wanted to purchase it as he thought he remembered there being an issue with the irrigation line.

City Administrator/Community Development Director Nathan Crane explained that he was able to send an updated list of properties and exhibits since the packet in question was sent out with incorrect information. Council Member Scott L. Smith said that he had people who emailed him and wanted to purchase the Horseshoe one. He asked what he should tell those people since there was an issue with the irrigation line. Mayor Rod Mann said that they would still need to fund the move of the pressurized irrigation line, and that was when the roadblock happened because it was a lot of money. Council Member Scott L. Smith asked if potential buyers were responsible to move the line. Mayor Rod Mann said yes. Council Member Kim Rodela thought a great thing about the plan they had was that they kept open a 30 day window for people and staff to analyze.

Council Member Scott L. Smith reiterated his question about the Horseshoe Trail. Mayor Rod Mann repeated that the buyer would be responsible for the relocation of the line. Council Member Scott L. Smith asked if the person could hire someone to do it if the City approved of the person.

City Engineer Todd Trane said that the Horseshoe Trail individuals needed to get a design by a sprinkler contractor. Council Member Scott L. Smith asked if they hired someone and paid for it if the City would have to approve the plan. City Engineer Todd Trane said yes because the City still had to maintain whatever was left. It would need to be per City standards and Josh would need to review it. City Engineer Todd Trane expressed that it was expensive, and that they had walked it with them and explained exactly what the City was looking for. He said that the problem was that the two individuals who they had worked with had tried to get a contractor out there but it was very expensive.

Council Member Brittney P. Bills said it was fair to let property owners know if there were any additional expenses they would be responsible for. She mentioned surveying and fees as examples. Council Member Kurt Ostler asked if they would pay for the lot line. City Engineer Todd Trane said that they split that cost.

It was noted that in regard to property #75 there was a storm drain on the east side of the trail. City Engineer Todd Trane said that engineering staff had been through the list with staff and had put down all their concerns and that they would prefer not to sell them.

Council Member Scott L. Smith asked about Apollo Circle, which was approved by City Council in 2017 with the old square footage cost with the stipulation that they would pay for irrigation lines. Council Member Kurt Ostler said that they did not do it in 2017 because of the cost of the irrigation.

It was communicated that there was no guaranteed pricing and no contract signed, and it was stated that it could still be surplussed. Council Member Brittney P. Bills asked what they could tell residents. Mayor Rod Mann said to tell them that they would just split the closing cost. Council Member Brittney P. Bills asked if they should tell residents that the City would pay 50% and then the residents would pay collectively 50%. Mayor Rod Mann noted that there were specific costs for each house. Council Member Brittney P. Bills said that she felt it was fair when they went into it to inform residents of any additional costs. She asked if it made sense to charge a little more per square footage to cover those costs. Mayor Rod Mann said no.

City Administrator/Community Development Director Nathan Crane explained that in the past they had provided estimates of what they thought they were based on past experience. However, they did not know until they knew how many properties would be divided up and what the cost of the surveyors was. He stated that they could get pretty close with an estimate.

Council Member Brittney P. Bills said that Nick Bayless would like to know how much it would cost to purchase. Council Member Brittney P. Bills asked if that came early in the process so they could decide within that 30 days. She noted that it seemed like they had spent a lot of extra staff time and resources.

City Administrator/Community Development Director Nathan Crane explained that the intent of the 30 days was to allow time for others to come forward with any other property that they wanted the Council to consider. From there the Council would adopt or not. He further explained that the next step was to develop the estimates based on who planned to buy what.

Council Member Scott L. Smith asked if they had ever voted on sharing costs and price of square footage. City Administrator/Community Development Director Nathan Crane answered that would be next. He communicated that when the Council determined the properties, the entire package would be brought to City Council for adoption.

Council Member Brittney P. Bills noted that they had not voted on where the money went.

There was some brief general conversation. Mayor Rod Mann said that they could be relatively confident that sometime between now and the end of the year they would be able to purchase the property.

## **10. DISCUSSION: RAP TAX**

The City Council will discuss the potential of establishing a RAP tax in Highland City. This item is being presented for discussion and direction only.

It was stated that if the Council chose to proceed with the RAP tax, there were some very specific steps that needed to be taken. Staff outlined that they had to submit information to the County, and the County had 60 days to respond. This basically gave the City until the end of May to submit to the County to ask if they would seek to impose a County wide RAP tax. Mayor Rod Mann explained that the reason they did that was because the state allowed the County to implement a RAP tax County wide. It was stated that if the County did not, then 75 days before the election the Council would have to decide to send it to the ballot. He noted that it would be on August 19th. He explained that the key things were that they needed to notify the residents what they would use the RAP tax for, and that they had a notice that they had to do three weeks prior to the election on October 12th.

Staff communicated that they needed to start to have discussions amongst the Council to decide if the RAP tax was something they wanted to start to pursue. He expressed that he did not think there was any harm in doing a general statement to the County to say what they wanted to use it for. He summarized that he wanted to go over the timeline, and reiterated that if this was something that the Council wanted to pursue they needed to get some direction from the Council in order to get it on the November ballot.

Council Member Scott L. Smith asked for clarification that the sales tax increased by .001%, which was one tenth of one cent. Staff confirmed, and stated that Finance Director Tyler Bahr had some information on how much that would potentially generate. Finance Director Tyler Bahr said that over the last full fiscal year they had seen a substantial increase in sales tax. He explained that if they went back an additional two years, they estimated an approximate \$100 revenue from the RAP tax. He noted that would have been more in FY20. It was noted that one of the key things was to go over what could be and could not be included in that.

Finance Director Tyler Bahr stated that on the list of items that would be considered taxable would not include grocery or unprepared food, but in general would include other items that sales tax applied to such as prepared food and any utility. Council Member Brittney P. Bills asked if any of their neighboring Cities had a RAP tax. Mayor Rod Mann replied that American Fork, Lehi, and Cedar Hills all had a RAP tax. Council Member Scott L. Smith commented that they were already supporting the other Cities' RAP taxes.

Council Member Kurt Ostler mentioned a survey that was recently conducted. Mayor Rod Mann mentioned that 52% were either likely or very likely. He said that was the only one that was over 50%, but there were some that said unlikely. He expressed the opinion that some of that came down to not having proper understanding or people did not want taxes in general. He mentioned that this was one that the voters actually got to decide. He thought that it was worth pursuing. Council Member Scott L. Smith said he would lean towards the money being used for parks and trails. Mayor Rod Mann mentioned they could use it to help finish Mountain Ridge Park and fix the trails up.

Council Member Kim Rodela and Council Member Brittney P. Bills were both in favor. Council Member Brittney P. Bills asked if it changed their ability to change the property tax. Mayor Rod Mann replied that he thought it would mitigate it a little bit. He said that the projects that they would spend the RAP tax revenue would alternatively be money that came from the general fund. Council Member Scott L. Smith commented that they would have to raise the culinary water fee that year also. Council Member Kim Rodela noted that this tax was not aimed at Highland residents, rather it was aimed at those who came and used Highland amenities.

## **11. DISCUSSION: PARK MAINTENANCE BUILDING**

The City Council will receive updates and discuss the status of the Park Maintenance Building. This item is being presented for discussion and direction only.

City Engineer Todd Trane gave an update on the park maintenance building. He recapped that the last time this had been discussed they had been working with Utah County to take down the existing building over on the Harvey Boulevard parcel. They got permission from Utah County to tear it down, so they did it quickly because they had heard rumors that other people wanted it. He noted that all of the parks staff had worked very hard to get it done, and they currently had it stored. He said that they were currently in the process of surveying the existing pad to make sure they had everything ready to go if and when they built it.

City Engineer Todd Trane showed the latest site plan for the old City Hall. He explained that the plan was to put a good concrete panel wall along the east side along Alpine Highway to fence it off and create an enclosed site. He further outlined that they would expand the parking so that old City Hall could utilize more parking in there during the night events. During the day it would be used for employee parking. He stated that this was the conceptual site plan that they would try and move forward with. He noted that they actually had a bid to put up the old building.

Council Member Scott L. Smith asked for clarification that the building being referred to was the one on Alpine Highway. It was. He then asked if it could look like the blue building that had been built up the street. City Engineer Todd Trane replied that the building was actually a home built out of metal. He said that they could make it look like that if they wanted.

City Engineer Todd Trane wanted to provide an update because they had received a few bids. He noted that the existing building was 40 x 80, and once they pulled measurements of the equipment they found that they actually had trucks and trailers longer than 40 feet. He said that the size of the existing building would not work for Josh's equipment, and ideally they needed 50 feet. He further said that if they looked at the design on the Mountain Ridge site plan, that was a 100 x 50 building, which was long enough to house the equipment.

City Engineer Todd Trane reiterated that the existing structure was just a bit too short. He explained that what he had done was get some bids to put the building back up. That bid came in at \$57.9K. He also informed them that he received two bids for a brand new building as well that measured 80 x 50. The bids were \$107,242 and \$116,000. City Engineer Todd Trane expressed that was their recommendation and what was included on the plan. He noted that they could still use the old building that had been pulled down, and he hoped that at some point in the future they could utilize the building at the cemetery.

City Engineer Todd Trane explained that they could utilize the basement of the old City Hall for a breakroom and some offices. He further explained that the entire upstairs would be for everything else. He said that usually when they had classes the upstairs was available. He stated that there could still be art and music classes, but that they would be upstairs.

Council Member Scott L. Smith asked what the building would look like. City Engineer Todd Trane noted that the building bids did not include the footing and foundation and flatwork, and he informed them that they planned to put the building on four foot concrete stem walls. He summarized that an additional \$50K would get them the needed building size and it would be brand new. He suggested that the Council take a drive and go down SR 74 and look at the building built by Jay Roundy, which was very similar to what they had planned for the new building.

City Engineer Todd Trane relayed that the reason they wanted to bring it to Council that night was because they needed to do some engineering on the stem wall, footing, and foundation. He said that they did not want to get

ahead of themselves and spend money if they did not have the support for the new building. Council Member Scott L. Smith said that he supported it. City Engineer Todd Trane noted that it was \$107K for the building, then there would be additional costs for the concrete and site improvements. He said that right now they had \$300K set aside for this structure, and he was hopeful that they could get it done with those funds.

## 12. MAYOR/COUNCIL AND STAFF COMMUNICATION ITEMS

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

### a. Future Meetings

- April 13, City Council Work Session, 7:00 pm, City Hall
- April 27, Planning Commission Meeting, 7:00 pm, City Hall
- April 28, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- May 4, City Council Meeting, 7:00 pm, City Hall
- May 12, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- May 18, City Council Meeting, 7:00 pm, City Hall
- May 25, Planning Commission Meeting, 7:00 pm, City Hall

Council Member Scott L. Smith wanted to share an email about blocking the euthanization of animals at the animal shelter. A very small percentage were euthanized. He said that he would forward that email to Council.

## 13. CLOSED SESSION

The City Council may recess to convene in a closed session to discuss the character, professional competence, or physical or mental health of an individual and pending or reasonable imminent litigation, as provided by Utah Code Annotated §52-4-205.

*At 10:17 pm Council Member Kurt Ostler MOVED that the City Council recess to convene in a closed session to discuss the character, professional competence, or physical or mental health of an individual and reasonable imminent litigation, as provided by Utah Code Annotated §52-4-205.*

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

*The vote was recorded as follows:*

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

*The motion passed unanimously.*

*Council Member Scott L. Smith MOVED to adjourn the CLOSED SESSION and Council Member Kim Rodela SECONDED the motion. All voted in favor and the motion passed unanimously. All voted in favor and the motion passed unanimously.*

*The CLOSED SESSION adjourned at 11:55 pm.*

## ADJOURNMENT

*Council Member Scott L. Smith MOVED to adjourn the regular meeting and Council Member Kim Rodela SECONDED the motion. All voted in favor and the motion passed unanimously.*

*The meeting adjourned at 11:55 pm.*

I, Stephannie Cottle, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on April 20, 2021. This document constitutes the official minutes for the Highland City Council Meeting.



Stephannie Cottle  
City Recorder