



## HIGHLAND CITY

# HIGHLAND CITY COUNCIL MINUTES

Tuesday, July 7, 2020

Approved 8/18/2020

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

This meeting will be held as outlined by the State of Utah's guidelines for the Low Risk phase for the COVID-19 pandemic. Individuals, especially those in a high-risk category, are strongly encouraged to participate in the meeting virtually via YouTube live at <http://bit.ly/HC-youtube>. If individuals participating electronically would like to make a comment during the Unscheduled Public Appearances section of the agenda or during one of the Public Hearings, they may call 1-346-248-7799 and use the Meeting ID: 840 7498 5628. Comments may also be emailed to [Council@highlandCity.org](mailto:Council@highlandCity.org) prior to the meeting.

**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, Assistant City Administrator Erin Wells, City Engineer Todd Trane, Planner & GIS Analyst Tara Tannahill, City Attorney Rob Patterson, City Recorder Stephannie Cottle, Library Director Donna Cardon, Fire Chief Reed Thompson (electronically)

**OTHERS PRESENT:** Jennifer Mitchell, Trever Mitchell, Bryon Tarbet, Dave Beck, Shane Manwaring, Jacob LaMarr, Casey Foote, Amy Foote, Matthew Foote, Cristy Henshaw, Leslie Andrew, Melisa Pitts, Tyrell Gray, Brent Wallace

**PRESENT ONLINE:** Colby Gibson

### **7:00 PM REGULAR SESSION** (CITY COUNCIL CHAMBERS)

Call to Order – Mayor Rod Mann

Invocation – Council Member Kim Rodela

Pledge of Allegiance – Council Member Timothy A. Ball

The meeting was called to order by Mayor Rod Mann as a regular session at **7:02 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 Kim Rodela and those in attendance were led in the Pledge of Allegiance by Council Member Timothy A. Ball.

### **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.)

Kristy Henshaw, Highland Resident, questioned City Council if cities would protect residents' rights. The struggle between City and State was not a new issue and was a big part of the reason that the majority of local

municipalities in the State of Utah belonged to the Utah League of Cities and Towns (ULCT). She claimed that she was not asking for action currently, just consideration on whether or not her claim hit the truth meter as true. If they could agree on a claim and orient themselves from a point of truth, they may be able to come up with solutions that served their community and their conscience. Her claim was that although the administration of the City had historically mostly been the focus of Council, the offices and powers existed to secure fundamental freedoms and the conditions for exercising those freedoms. She defined freedom with the classical definition to mean the power to act for oneself or a state of exemption from power or control of another. She stated that if her claim were true, she sincerely asked what could be done on a City level to secure freedoms and the conditions for exercising those freedoms in the City of Highland.

Colby Gibson sent in a message via YouTube Live that said they needed to get a plan for the elimination of the open space fee. Open spaces were used by all residents of Highland and if they could not be paid by a General Fund these fees needed to be eliminated.

## **2. PRESENTATIONS**

### **a. City Youth Council Update - Youth City Council Representative**

No City Council Representatives were present.

### **b. Library Policy Update - Library Director Donna Cardon**

Library Director Donna Cardon stated that she wanted to update Council on how the library had fared during the COVID-19 pandemic and what their plans were going forward. On March 12<sup>th</sup>, Governor Herbert encouraged people to stay home and stay safe so the next day the library decided to close its doors to the public. At this point library staff jumped into action to figure out how to provide virtual programming and curbside pickup. On March 18<sup>th</sup> they had their first curbside pickup and they also started their virtual programming of online story times on Facebook, Instagram and the library YouTube channel. During March, April, and May they had provided curbside pickups on Thursdays and during those months they distributed over 2,000 items to over 400 patrons, they also posted 18 video story times and created 18 virtual science-based programs for school-aged children. She compared that year's statistics with a normal year and stated that in March 2019 they circulated 14,462 items and in the two and a half months they were closed in 2020 they had only circulated 2,000. They had tried hard to distribute items to people, but it was not like when they were actually open to the public. In June, their numbers jumped up a little, they circulated 10,000 items but in June of the previous year they had circulated 20,000. People were glad they were open again, but they were not getting much usage because people were being cautious about the virus which was understandable. She stated that in March and April they had not allowed people to return books until they figured out what the research would say on how to return them safely but in May they had created a system and had allowed people to return books. On the first day they had had over 900 items returned which were quarantined on the library floor for 3 days before they were checked back in. In June they opened again to the public with limited hours and on the first day they checked out over 900 items.

She stated that also in the first week in June they started their programs in the park, being careful to set them up with social distancing. They put brightly colored foam pads on the ground and invited families to sit on their own squares to avoid crowding. The patrons were happy that they were offering at least some sort of program over the summer and she thought that they were the only City in Utah County that had offered library programs in June. She stated that American Fork was going to start stories in the park in July.

She went on to say that the library was halfway through their summer reading program. They did online registrations, and that the numbers weren't what they were the year before, but she was still happy with the participation that they did have. With everything going on they had offered the reading incentives through dispensing machines so that kids could get their own prizes and had alcohol wipes available. Their main goal moving forward was to continue to provide quality service and programs while maintaining proper social distancing and safety. They will host a wizard themed party at the end of July as a part of the Highland Fling which was engineered to promote social distance. The main challenge would be in the fall because they didn't

have a space in the library that was big enough for people to come to story time and practice social distancing. Library staff is looking into scheduling the Council Chambers in the fall but they know that will conflict with the City's occasional general use of that space.

She stated that looking forward for library service they needed to look into getting more space for both programs and materials, as it had been becoming increasingly urgent. When the library was built 12 years before it was on the small side for the community at the time. Highland had grown since then, so it was becoming increasingly difficult to offer public programs and have an appropriate size collection. As a result, the library board was in the process of updating their strategic plan and they hoped to look into ways they could expand library space.

Council Member Kurt Ostler asked if they had gotten all of their books back after COVID. Library Director Donna Cardon replied that while they were closed, they kept pushing back the due date and all of the books that had been checked out when they were closed were due back July 1<sup>st</sup>. She stated that when the books were returned, they had 13 moving boxes of books that were waiting to be put away. Library Director Donna Cardon said she thought the books were mostly coming back, but it had been a challenge because everything was due at the same time.

**c. Natura Solve – Jennifer Mitchell, Dave Beck, Bryon Tarbet, PhD**

Jennifer Mitchell, founder of Natura Solve, stated that they had met with the Mayor and a couple Council Members and had the opportunity to discuss the program a little bit and thanked Council for allowing them to present. She stated that Natura Solve was a Utah based company that was focused on clean and sustainable technology and products. She had been working on it for seven years and commented that David Beck, Highland Resident, would help oversee relations with the City. Bryon Tarbet, PhD, was the lead scientist who helped with application, dosing, and customization of any treatment programs, and Trevor Mitchell was in charge of logistics and support services.

They had worked with water, wastewater, secondary water, oil and gas, mine site remediation and mosquito abatement and had been doing research about environmental benefits for the past seven years. They proposed their product could help decrease water usage in Highland, which had been a pressing concern that had not gone away. Their product helped to reduce water needs by 20-52% on average. They also helped to decrease mosquito populations and helped to clean up standing water. Another benefit was the breakdown of organic waste products which Highland has had problems with, including plugging residential filtration systems. She commented that their project was OMRI certified, which was the Organic Materials Resource Institute, a national institute, and they were also certified organic in multiple states.

She explained some of the specifics of their project and stated that the core formulation of the project had been invented 52 years ago by two brothers who worked with Italy's poor soil which was similar to Utah soil. She stated that their team, specifically Bryon, had been working to customize and expand on their treatment opportunities. They had a core product that was non-genetically modified, 100% natural, bacteria and enzyme blend. In the environment there were good bacteria and when soil was treated it depleted this good bacterium from the soil and water and their product helped to re-establish the good bacteria into the water and soil, decreasing the amount of water needed to treat plants. It was 100% environmentally safe and it could be eaten, but she did not recommend it. She referred to an image of plugs that compared soil that had been treated with their product to an untreated soil.

She went on to describe the benefits of the product and stated that it improved overall plant health, extended growing seasons, and improved water and nutrient uptake in plants. She explained that plants could only take up a certain amount of nutrients based on the chemical component and their product helped to break down these nutrients into forms that the plant could more readily take up. They produced better tasting fruits and vegetable hands down, they naturally enhanced resistance to insect and disease because the plants were stronger overall, they improved resistance to cold and shelf-life. They had gotten EPA certified for all ground and water discharge.

They proposed to dose the holding pond in Highland that would then be distributed to residents through existing systems. She commented that it was kid and pet safe and nontoxic, so it did not require any special handling or permits.

She provided some examples of their prior projects. They had worked with Utilities Inc. which was one of the largest utility management companies nationwide, Riverton City on their secondary water and parks department, Pahrump, Nevada's waste-water treatment plant, Azure Standard and All American Sod who had large swaths of land where they were seeing great results with water usage. They had worked extensively with Blue Lakes Land, which was a land and agricultural development company, as well as universities in Utah to test out methods of mosquito abatement. She commented that they had seen a 98%+ reduction in mosquitos in every treated area.

She stated that the approach they proposed to take was dosing the irrigation system through the main holding pond 3 times over the rest of the year beginning that month. Next year they would propose to dose once a month from April-August with an option to treat in September and October, if necessary. They would be doing testing along the way. She commented that two of their members were residents of Highland so they were interested in the results which would be provided to residents. She stated that their goals were to reduce the water use by 30%. She commented that when residents were told that, they might get nervous so they would like to be a part of an educational program. They could provide materials to help residents understand what they were doing and where the reductions would be. They were also looking to reduce fertilizer use by at least 30%. Typically, in their agricultural applications they had reduced fertilizer by 30% and increased the reduction to about a 70% reduction. They would also reduce the algae, sediment, and organic matter that plugged up filtration systems.

She said the next steps were to dose in July and then test, and then repeat in August and September. They would chart the usage rates at the end of the season, the beginning of the next year, the following spring, and early summer, which would help them to see their impactables on the local usage. She said that when vegetation was healthy and greener, people water less even though they do not realize they are. They would recommend the City pull back their water by 30% and their fertilizer by 30% upon the first dose and they would continue to test the water to make sure everything was going according to plan.

Council Member Scott L. Smith asked for clarification on how their product reduced water use. Founder Jennifer Mitchell replied that when they started dosing, because it was a naturally occurring bacteria which tended to create colonies, when the soil was treated, these bacteria would begin to grow. She stated that all bacteria had a natural growth curve and that after 3 days they started growing and after seven days they started exponentially growing. She compared their product to a sponge in the soil which created organic matter in order to hold water in the soil. She stated that another way to immediately reduce water was that when plants were healthier overall, they required less water. Mayor Rod Mann stated that he agreed with Council Member Scott L. Smith and that they would have to work with residents to help them understand why they needed to use less water. He stated the City could cut their water usage. If the City properties got greener, they could use it as an example for residents of the reduction of water usage, but it would require education. He commented that they spent about \$22,000 a year on fertilizer so if they could cut that in half at some point, they could cover a lot of the cost of this and the City as a whole would benefit from this.

Founder Jennifer Mitchell stated that they had tried to develop a program that would be supplemental and they understood that there would be a need for education which they would be more than happy to do. As a Utah native, she had talked to the Utah hydrologist and there was a concern of the population increasing exponentially and this was one area that needed to be addressed. As a company they were interested in continuing long term education so that residents adopted the processes that would help the City cut back on water. She commented that she had driven past the cemetery and that in two to three uses they would be able to tell a difference in the grass there. The overall look of all the grass in the City would drastically change, the yellowing would go away, and the blades would get thicker. She stated that they would be happy to test and report as often as the City

wanted on the soil and water. They could also help with 3<sup>rd</sup> party polling to see if residents were aware of the program. They could then come in next spring with educational materials.

Council Member Scott L. Smith asked if they had a patent on the bacteria mix and if so, would the City be allowed to know what was in the mix. Founder Jennifer Mitchell stated that when people heard bacteria, they had an initial aversion to it because antibacterials had done such a great job in telling them that bacteria was bad for them. She said that they did not have a patent because it was a naturally occurring process, non-GMO, which was considered a trade secret but that if people asked what was in it, they could be told. She commented that they had brought a bottle and was available to look at.

Council Member Kim Rodela asked if they had done the same program with Riverton City and if so, had they seen the 30% decrease in water usage and fertilizer. Founder Jennifer Mitchell replied that the Riverton mayor had asked them to look into their secondary water usage. Riverton had a very high salt content and because they were switching all of their residents to the secondary water for outdoor use, salt was a huge concern. She commented that they had been testing for other purposes and were moving forward and continuing conversations but that at the time things had been stuck because the mayor was looking into different political arenas. She said that in Riverton they were treating their secondary water and looking at total dissolved solids and pathogens in the water, so the program was a little different in Riverton, but they were looking to move forward together on other projects. Council Member Kim Rodela asked if there were other cities they had done the program with, or if Highland City was the pilot program for this. Founder Jennifer Mitchell replied that Highland was in no way the pilot for this process and commented that the process was used overseas, and that Italy used it extensively on their waterways. She commented that in Utah they had conversations going with three other cities. Their focus had not been on residential use instead they had been doing work in waste water treatment, mine site remediation, and other more industrial uses. She stated that they had come to talk to Highland because two of their team members were Highland residents and had concerns themselves.

Mayor Rod Mann commented that in terms of the City using it on a regular basis they would be considered an early adopter. Founder Jennifer Mitchell stated that they were seeing a huge shift and she did not know what had happened recently. The sustainable and natural and organic methods seemed to be catching up and they were excited to have Highland as an early adopter, but this method had been around for a while and had a lot of benefits.

Council Member Scott L. Smith expressed concerns over the product being accidentally ingested by people and asked if there was any research associated with ingestion. Founder Jennifer Mitchell commented that she was excited to treat water that kids might drink because they eliminated pathogens right away. This helped to drop heavy metals like arsenic out of the water column so it would naturally remediate it. She stated that the EPA had done testing from people drinking it to injecting it and they had deemed that it was not harmful, whatsoever. They did not recommend that a person consume it, but it would not be harmful if they did. It was kid and pet safe and they had talked to several distribution centers including IFA about co-branding a product for residential use. She said there was literature available as well as any other licensing or those types of things if residents needed it.

Council Member Timothy A. Ball asked that if because growth of the colony was exponential, would there be a point to diminishing marginal returns or was there some sort of natural equilibrium that was achieved through atmospheric conditions or did it just keep growing. Founder Jennifer Mitchell replied that yes, it had exponential growth. However, like all living organisms, freezing temperatures would cause it to die off or go dormant. The same thing happened with extreme heat, but they were not too worried about that with environmental uses. She stated that there was a natural equilibrium and she was running micro experiments in her yard to test this. She commented that how their bacteria were strung together and how it lived harmoniously together was unique because when bacteria were deprived of food sources it usually turned on each other. She stated that they were an idealistic company and that they would coat the whole earth with this stuff if they could. Their goal was to manage doses to make sure they were using the right amount and that over time Highland would need to use less

and less of the product. It would not get to a point where it did not work anymore because it was a naturally occurring process, and unlike chemicals there was no limit to reapplication.

Council Member Timothy A. Ball asked if Ms. Mitchell had any examples in which there had been a natural migration of the product into culinary water through the soil and other natural processes in the environment. Founder Jennifer Mitchell replied that she did not have a case study and commented that when soils were treated in Herriman at the base of a mine site, it naturally seeped into the groundwater but it cleaned toxins out of the soil as it did so. She commented that it would migrate, but not quickly.

Bryan Tarbet stated that this was mostly about food. He stated that as they went deeper and deeper into the soil there was less and less food so the possibility of making its way in large numbers into the groundwater sources was quite small because it had to move through solid rock where there was very little food so the colony concentration would drop off very quickly.

Council Member Kurt Ostler asked if the hope was to look for a recommendation from City Council to have this done in the PI pond at the current time or if it was more of a presentation. Mayor Rod Mann replied that it was all information, but because it was going into the PI system they thought it would be good to let them know what was coming and if they had any serious concerns to share them so they could be mitigated.

Council Member Kurt Ostler stated that in 2019 Riverton City had started with the two treatments. He asked if those were through a PI pond system or if it was a small test in a small area of the City to which Founder Jennifer Mitchell replied, small tests. Council Member Kurt Ostler commented that in 2019-2020 it was his understanding that Riverton had not continued with the treatments and asked if this was correct to which Ms. Mitchell replied it was. She stated that they really needed to address the salt issue, and that was not something that their product did. Their testing was able to manage the pH level and pathogens, however, their budget only allowed for dealing with the salt issue. Council Member Kurt Ostler asked if their recommendation was to put it into their big PI pond which was up by the mouth of American Fork Canyon. His concern was that the residents would ask a lot of questions like if it was safe, was it a weed control, and what it was. Ms. Mitchell interjected that it was not a weed control, it helped things to grow and that they specialized in water and soil and so water reduction and the decrease of organic matter in the filtration system was their focus. Council Member Kurt Ostler asked if it would clog any of their sprinkler systems, to which Ms. Mitchell replied, no. She stated that it would help to clean out any built-up material that was already in there. Council Member Kurt Ostler commented that that was one thing they were having a lot of problems with and that he cleaned his filter at least once a week. Council Member Kurt Oster asked how fast it would work, and if it would take care of the filtering issues they had. It was stated that they hoped that since algae, which was a bulk of what he had in his filter, and bacteria were competitors that bacteria grow arithmetically and outcompete which grows the algae slower. Taking away nutrients from the algae caused them to stop growing. Council Member Kurt Ostler stated they were bringing water in from the Murdock canal which came out of Deer Creek and dumping it in during the day and using it by night, so it was occurring pretty fast. Bryan replied that the bacteria would double in population within the range of two hours, algae take much longer than that to divide, so in the range of about two days and that it should start to clean up the water within a week. Council Member Kurt Ostler asked if it would stay in their system because they flushed the water out, and he was informed that the reservoir was never flushed completely empty so there was always a reservoir of beneficial bacteria that would keep growing. The idea was to treat once a month so they had a minimum level but then the bacteria would live because there was material to eat and they would continually outcompete the algae. Council Member Kurt Ostler asked if they had tested this to which Bryan Tarbet replied no, they had not, but he had set up a system to test this if they had decided to start the treatment.

Council Member Kurt Ostler commented that he had heard about side effect benefits but was concerned about side effects that they did not know about. He was concerned that there had been no testing and worried about resident's health. Bryan Tarbet commented that it had originally been done in Italy to treat munition contaminated soil in large areas left from WWII which was the large-scale testing being done. Trever Mitchell commented that

he had been treating his yard for two years. He has two dogs, a cat, seven chickens, a beehive, and little children and has never had a problem. Council Member Kurt Ostler said it was hard to tell from one house. Trevor Mitchell replied that he had started treating his neighbors' lawns. Council Member Kurt Ostler asked how he treated his yard to which Mr. Mitchell replied that he used a hand sprayer. Council Member Kurt Ostler suggested that they have residents perform test in small areas before they went City wide because he had a hard time going forward without any tests. Trevor Mitchell stated that he would recommend anyone get it for their yard even if they did not go Citywide with it. He said that he watered his yard every three days for five minutes a zone and used considerably less water. Council Member Kurt Ostler would like to have a small controlled test area to see what it did before they went City-wide, and was concerned how the City would be perceived if there were a GI outbreak. Jennifer Mitchell commented that she would like to know what kind of test would suit his purpose because she had decades of studies in every usage and she could provide results for him. She could provide a case study by hand spraying in Highland if he wanted.

Council Member Kurt Ostler commented that it had appeared that the agriculture community would be where they would want to work, and she replied that the agriculture community had welcomed them with open arms. She stated that in the 53 years that the product had been used overseas they had never had an issue with someone getting sick and there were plenty of case studies to support it. She stated that Saudi Arabia bought 110 tons a day, mostly to clean up their oil fields as a part of their religious creed but there were plenty of case studies of people drinking treated water with no health effects. Council Member Kurt Ostler asked what parks and rec were recommending and City Administrator/Community Development Director City Administrator/Community Development Director Nathan Crane replied that they had not discussed it specifically but they had met with the PI superintendent. They would need to bring a contract to Council if they did discuss it further.

Council Member Scott L. Smith asked how much it would cost them. Jennifer Mitchell replied that they had put together a program to drastically reduce what they would normally charge them, They had it scheduled out to be \$3,049.00 per treatment per 6.5 million gallons of water, which was a very small fraction of their typical treatment program. She stated that they had good insurance companies and people to put policies in place to help protect residents and they wanted to facilitate a long-term relationship with the City. She stated that she had done 7 years' worth of research on her own dime in order to feel comfortable with the product. She was also skeptical when she came across the product, but there were no handling restrictions and it was quite an easy process. She stated the application process itself is much easier than the explanation process. Council Member Kurt Ostler mentioned that she had said not to get it in your eyes. Mayor Rod Mann interjected that she had been talking about the concentrated version that they used for the bulk mixture and asked Ms. Mitchell how much they diluted it to which she replied 1200:1 water to concentrate for application.

Brent Wallace stated that they should verify the results of the testing through phone calls and emails with their previous customers.

Mayor Rod Mann stated that it would be \$3,000.00 per treatment and they would do 3 doses that year with 5-7 the following year depending on how the treatments do. Founder Jennifer Mitchell stated that in response to Mr. Wallace's comment, they had some excellent engineers that were wastewater treatment experts out of Pennsylvania who would be available to comment on using the product in culinary and secondary water. Mayor Rod Mann stated they would check references and get back to them about a contract approval.

Founder Jennifer Mitchell stated that because of COVID they had not brought hard copies of the presentation but that it was available via email for anyone who would like it.

### **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. **ACTION: Approval of Meeting Minutes** *Administrative*  
Regular City Council Meeting - June 2, 2020 and Work Session - June 9, 2020
- b. **ACTION: SBGS Ridgeline Holdings, LLC is requesting Final Plat Approval for a 7-lot subdivision. The property is approximately 2.85 acres and is located at 10272 N 4800 W** *Administrative*  
The City Council will consider a request by Garrett Seely representing SBGS Ridgeline Holdings for final plat approval for a 7-lot subdivision to be known as Wildrose Plat B located at approximately 10272 N 4800 W. The Council will take appropriate action.
- c. **ACTION: Approval of an easement for Rocky Mountain Power and Central Utah Water Conservancy District for property located approximately at 4361 W 11000 N** *Administrative*  
The City Council will consider a request by Central Utah Water Conservancy District and Rocky Mountain Power for approval of an easement for a pump house for Alpine City and authorize the Mayor and City Recorder to execute the necessary contract documents. The City Council will take appropriate action.
- d. **ACTION: Approval of the Crown Castle Fiber, LLC (Crown Castle) Franchise Agreement** *Administrative*  
The Council will consider a request by Crown Castle Fiber, LLC for a franchise agreement to allow work within City right of way. The Council will take appropriate action.

Council Member Kurt Ostler asked that item 3b be pulled off the consent agenda for further discussion.

*Council Member Scott L. Smith MOVED to approve consent item 3a, 3c, d on the agenda. 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.*

*Item b:*

Council Member Kurt Ostler stated that the reason he had pulled this was because he had a concern on how many times it had changed names. He stated that it had come to them as Fairfield Cove, on May 19<sup>th</sup> and they changed the name to Wildrose PD district. Mayor Rodd Mann stated that the developer had changed the name that it was now in front of them as Wildrose Plat B. Council Member Kurt Oster felt that it was very misleading because they had a subdivision right next to this area that was called Wildrose. It appeared that by using the name Wildrose Plat B that they were trying to play off Wildrose to make it appear that the old subdivision would be a part of the new open space subdivision. Council Member Kurt Ostler proposed that they keep the name Wildrose PD District.

Council Member Kurt Ostler *MOVED* to approve consent item 3b, approve the finding on FP-20-03 requesting and approving plat Wildrose PD district, subject to the six stipulations, with one of them being the name is Wildrose PD District.

The six stipulations are:

1. Development shall comply with the Wildrose Project Plan and Narrative date stamped April 17, 2020 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.
4. The parkway detail along North County Boulevard shall be a minimum of 29 feet and shall be demonstrated prior to approval of Preliminary Plat.
5. The development shall include commercial and no more than six (6) homes.
6. A fee of \$60,000.00 will be paid in lieu of providing recreational area in the residential district.

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.

#### **4. ACTION: APPROVAL OF OPEN SPACE MAINTENANCE PLAN FOR THAD ABBOTT FOR PROPERTY IN THE BEACON HILL SUBDIVISION** *Administrative*

The City Council will consider a request by Thad Abbott for open space maintenance plan for property adjacent to lot #613 in the Beacon Hills Subdivision. The City Council will take appropriate action.

Mayor Rod Mann commented that they had three open space maintenance agreements and would like to have Planner & GIS Analyst Tara Tannahill go through all three maintenance agreements at once and then have one discussion.

Planner & GIS Analyst Tara Tannahill provided some background on Open Space Maintenance Agreements and stated that there had been two versions. On January 10, 2017, the City Council amended Chapter 12.28 to only allow maintenance agreements on properties that could not be sold, and still required City Council approval. Allowed items with open space maintenance agreements is essentially no permanent structures but grass and sprinkler systems, small vegetation, desert landscaping, curbing around landscaping, small gardens, temporary fencing around the garden bed seasonally, and small trees, with conditional approval from the park superintendent. On the not-allowed list were decks, landscape boulders, structures or sheds, storage of personal belongings such as tools, equipment, vehicles, or trailers, any improvement which restricted or limited access to the property like permanent fencing, digging other than for a sprinkling system, grading unless approved by the City in writing and any improvements not expressly authorized or approved by the City, including animals or animal shelters. They had 43 total approved maintenance agreements and of those 28 were still considered active, 15 had terminated due to the purchase of the property itself, 16 had expired or needed renewal submittals but they had had trouble getting the renewal submittals from the property owners.

Council Member Scott L. Smith asked what the renewal process was to which Planner & GIS Analyst Tara Tannahill replied that a letter was submitted, it was a simple application, they acknowledged they still wanted to

have the maintenance agreement, and provided the maintenance plan which was compared to what was on file to make sure nothing had changed. Council Member Kurt Ostler asked how many new applicants they had to which Planner & GIS Analyst Tara Tannahill replied she could get that information for him. She stated that some issues with open space maintenance agreements were primarily complaints of public access. People were saying they were the property owners when they were not. She stated that the PI plan paid for water use not the property owner with the maintenance agreement.

She went on to the proposed agreements. The first one was for Thad Abbott for the property adjacent to his lot. Mr. Abbott submitted the maintenance application on May 27 after he had submitted a fencing application on May 26 and discovered there was no maintenance agreement on the property. The property was currently landscaped with grass and had some garden planters on it. Council Member Kurt Ostler asked if these garden planters were allowed on other open space properties to which Planner & GIS Analyst Tara Tannahill replied yes, that they were on the approved list. She stated that Mr. Abbott wanted to continue what was already there as well as with the seasonal fencing around the garden beds.

Council Member Scott L. Smith stated the area was a main water line for the City but there had never been a trail that would be developed there so he was curious who had made the decision that the property could never be sold and wondered why someone couldn't buy the property and obtain an easement for the water line. Planner & GIS Analyst Tara Tannahill stated that she could read the part of the amendment that addressed that and while she looked for the amendment City Administrator/Community Development Director Nathan Crane stated that when they had dealt with requests for disposal, Council had always decided to retain public property with infrastructure underneath it for easy access. They had other areas in the City with easements where fences had gone up and limited their access, so their stance had been to retain the property for ease of access. Mayor Rod Mann stated that in the past, Council had not opted to sell land with infrastructure because it had always been Staff recommendation. It limited problems and it was a Council choice so if they decided to proceed with that it would have to be a different meeting. Council Member Scott L. Smith asked about access through people's properties and Mayor Rod Mann explained where the City access was with a map.

Council Member Kurt Ostler asked about seasonal fencing. He thought that the seasonal fencing was conflicting to public access. Council Member Scott L. Smith asked for clarification about public access. Council Member Scott L. Smith and Council Member Kurt Ostler had a discussion regarding public access. Council Member Kurt Ostler asked if there had been problems with seasonal fencing to which Planner & GIS Analyst Tara Tannahill replied that she had not received any from her code enforcement standpoint.

City Administrator/Community Development Director Nathan Crane commented that the agreement stated that temporary fences or enclosures around garden during growing seasons was allowed, so it could potentially be someone's entire backyard. Mayor Rod Mann clarified that it could not block public access. City Administrator/Community Development Director Nathan Crane stated that the property had been identified for a trail. Assistant City Administrator Erin Wells showed a slide and there was discussion about the trail. Council Member Brittney P. Bills asked that whether or not it was a trail, what that changed. She said it was City property and they had had issues all over the City where people's houses backed up to City open space and encroached on it. There were properties designated as City property, but no one knew what and it was inconsistent how they enforced anything. She understood that it changed the use, but if they had maintenance agreements, they should have them consistently enforced and applied. She commented that maybe Council Member Scott L. Smith was right and that maybe they needed to rethink what they allowed to be sold but she did not know she just thought it was complicated and inconsistent.

Planner & GIS Analyst Tara Tannahill stated that for citizen participation they had notified property owners within 250ft. on June 22, she had not received any written response. For their recommendation she moved that the City Council authorize to execute an open space maintenance agreement with Thad Abbott subject to the

following 2 stipulations: all improvements should comply with the plan submitted on May 26, 2020 and no trees were permitted in the open space due to the water line.

Planner & GIS Analyst Tara Tannahill moved onto the next proposal which was on 659 W. Chamberry Way made by Shane and Kaylee Manwaring. On April 19, 2011, the City Council approved a subdivision maintenance plan and lots 110-111 were part of that motion where the future property would have the ability to maintain the City property in the future. The applicant had applied on May 25, the plan included grass, grading, sprinkling system, garden boxes and trees. She referenced the proposed maintenance plan and stated it was a Rocky Mountain Power Utility area who had major power lines on the property that they would like to maintain access. Planner & GIS Analyst Tara Tannahill referenced the map and showed the trail map that proposed a future connector trail. Still referencing the map, she explained why the trail would need to go where it was marked. There was currently an existing asphalted trail and so the future plan would have to continue forward with that trail system.

Council Member Scott L. Smith stated that he did not remember a connector trail being there. Council Member Kurt Ostler stated that there were curb cuts already in place which looked like the City had planned on having the trail continue. City Administrator/Community Development Director Nathan Crane referred back to the map and explained the trail map. Council Member Scott L. Smith asked about curb cuts along the trails and asked how they made their decisions based on curb cuts. City Administrator/Community Development Director Nathan Crane said that in the early 2000s when it was built who knew. There was more discussion about the map. Council Member Scott L. Smith commented that he thought they needed better maps with more detail.

Planner & GIS Analyst Tara Tannahill stated that for citizen participation it was mailed on June 22 and they had not received any written correspondence about this maintenance agreement and the proposed recommendation was that there be 4 stipulations: installation of the sprinklers should be approved by parks superintendent, the type and placement of the trees should be approved by the parks superintendent and City engineer, the grading of the lot should be approved by the City engineer, and the maintenance plan should be approved by Rocky Mountain Power who was in the process of reviewing it.

Planner & GIS Analyst Tara Tannahill moved on to the final maintenance proposal which was made by Jacob and Lori LaMarr. It was for a property at 5995 W Highland View Drive. On June 4, 2020, Jacob and Lori LaMarr applied for the application for 354 square feet that included grass and a sprinkling system. Planner & GIS Analyst Tara Tannahill stated that there was a main City line that ran through the property, so it was not eligible to be sold. She stated that they had received a question about the drainage pipe in that area, so they had decided to review the area. She referenced two photos that showed what it currently looked like and what it should look like. She said that they had been receiving bids on the piping and it could be expensive. Mayor Rod Mann asked how the ground had changed to which Planner & GIS Analyst Tara Tannahill replied that it had been filled in by a resident. Council Member Kurt Ostler asked if the City were taking responsibility to have the lot piped to which Planner & GIS Analyst Tara Tannahill replied that Council would have to make that decision.

City Administrator/Community Development Director Nathan Crane commented that it had come up earlier that day that they had talked to Ty Christensen, Streets and Storm Drain, they were looking at bridging the gap and enclosing the pipe.

Council Member Scott L. Smith asked for more information about the Rocky Mountain Power easement line and asked what rights they had. Planner & GIS Analyst Tara Tannahill replied that she would have to look into that and that she had not been in conversation with Rocky Mountain Power about how often and where they accessed. Council Member Scott L. Smith stated that there was a dirt road there and he was concerned about who was accessing the property and driving over the City's landscaping. He commented that RMP had a substation in the area and asked why they could not access the property from there. City Administrator/Community Development Director Nathan Crane stated that they could not come from the substation because of a drop in elevation that was

basically a cliff that would prevent them from getting from the substation up. Council Member Scott L. Smith asked why there was a road there to which City Administrator/Community Development Director Nathan Crane replied that these kinds of dirt roads were common for access to utilities and that there were trailers in the back. He said it was being accessed enough to keep weeds down, but it was not a typical access. He thought it was a combination of people in the area and for utility use.

Council Member Scott L. Smith stated that if they developed a trail system and finished the trail, how could they make it so RMP could access their easement and get their trucks in there. City Administrator/Community Development Director Nathan Crane replied that there were two ways to do it and that one of the challenges was that RMP trucks were so heavy so they would have to make a walking trail that they could drive on or they would have to create something like at Murdock Canal where it was wide enough and structurally sound enough to accommodate the trucks, but this would get costly. Council Member Scott L. Smith stated that his concern was that if RMP was using the trail a lot that they should have to pay.

Planner & GIS Analyst Tara Tannahill stated that when they had reviewed the drainage pipe area they had noticed a section that was piped that had not originally intended to be piped, the lower section was still open and the concern was that they didn't know how it was approved or if it had been approved and that it would create more runoff for the properties below. She said they had done the same citizen participation that went out on June 22<sup>nd</sup> and they had received 4 not in favor written correspondences about this maintenance plan. For their recommendation, if it was approved there were 3 stipulations recommended by staff: it shall comply with the proposal, no trees should be permitted in the area because of the water line, and the sprinkling system should be approved by the parks superintendent.

Mayor Rod Mann invited applicants to speak.

Thad Abbott stated that after hearing the discussion he would like to propose that they take special consideration for different areas that had limited public access and consider selling the property to property owners. He had discussed it with most of his neighbors and they would like to maintain the property. He thought they could set up a modified maintenance plan even with the sale of the area with the understanding that they might have to do maintenance on it and allow access for utilities. Mayor Rod Mann stated that if the Council decided to go that route it would have to be discussed on another night.

Shane Manwaring referenced the future trail map and wanted to clarify the trail in relation to where his property was. He also wanted clarification on the process he would need to follow through with RMP and the City engineer for approval on improvements. Planner & GIS Analyst Tara Tannahill stated they would discuss the process with him after the meeting. Council Member Scott L. Smith asked what the issue with the property was because there were already trees there. Planner & GIS Analyst Tara Tannahill replied that in initially talking with RMP they wanted to review it because they were not sure if they wanted trees there, so she was waiting for their official decision about the trees. Mr. Manwaring stated that it appeared that the City had an existing sprinkler system on the property and that there was a lot adjacent to his property that was City property and then there was the RMP substation. Council Member Scott L. Smith stated that as a part of that original master plan there had been discussion of the City putting trees in that area as part of the agreement, so he was surprised the RMP suddenly decided they didn't want them.

Jacob LaMarr stated that he had read through the submitted complaints and he thought the major theme was that people were concerned about access, which was not a concern of his at all. His major concern with the easement was the dirt and the weeds. He thought having grass or a path or whatever was needed for access would alleviate that concern. He clarified that the questionable pipe discussed earlier had been put in by residents that lived along that area to remove a ditch. He said they had not planned on doing anything with that hole at the time but were willing to work with whatever plans the City had for it. He stated that they had originally planned on putting the sprinkler system on their side of the property and sprinkling it over to the grass to keep it maintained but if they

needed to put sprinklers on the other side as well they had no problems with that. They were happy to open up the area for public access for whatever reason.

Council Member Scott L. Smith asked about the dirt road again if they would want to have grass over it and allow RMP to drive over it to which Mr. LaMarr replied, not at all. He said if people wanted to walk, ride their bike, or horses along the road he had no problem with that. His goal was to put grass along the entire easement unless there was a path that was put in, just to limit the amount of dirt. He had seen a dust cloud come down that road earlier that day which ended up on his back deck where his kids play which was his main concern.

Mayor Rod Mann clarified that this was an administrative decision that could be deferred if they needed more information before making their decision.

Council Member Scott L. Smith stated that he had walked these areas the night before and that the public area along the first property had already been landscaped without maintenance agreements. He thought that if they approved this it would be good to contact these homeowners to see if they would like to make an agreement that was legal and enter into a maintenance agreement so they would know what they could and could not do. Mayor Rod Mann agreed and stated that there were 13 properties along that corridor and that 6 of them were landscaped.

Council Member Timothy A. Ball stated that he was concerned about the concept of implied easements and that there had been precedent in the past in different states where a resident had indicated that children had walked across a lot within an HOA so many times that it had become an implied easement and they were able to take control of this property and turn the implied easement into a legal easement. His concern was that if people were improving the property, that because of these improvements, they would have ownership interests which would open the City to liability. He was concerned about the lack of language in the agreement that stated that was not an endorsement of property rights and asked for that to be addressed.

City Attorney Rob Patterson stated that there were two types of easements involved. He said that under Utah law a public road could be created through use over ten years which was a prescribed easement for right of way but that this was different because this was not being used for right of way, it was being used for individual benefit of the property owners. He stated that private property owners could not claim any right to property owned by a public entity being used for public purposes including trails, parks, etc. Council Member Timothy A. Ball asked if this was true even if there were improvements, to which City Attorney Rob Patterson replied this was correct. He stated that even with improvements, the City was protected. Council Member Timothy A. Ball asked if they should include it into the language to preclude lawsuits or if they had the protection already established. City Attorney Rob Patterson referenced the agreement and Mayor Rod Mann commented that the agreement was pretty specific. It said that this was public property and access could not be restricted. He said they had had several cases where residents had maintenance agreements with land that had designated trail had chased people off claiming it was their property. City Attorney Rob Patterson stated that in paragraph 4 of the agreement it talked about the rights that specifically said the City would not grant any rights and that the property owner was gaining maintenance abilities but could not limit public access. He said he had read through the agreement and was comfortable with the callout of that for the property owners. He stated that when the property owner signed the agreement, they were agreeing that the City was not giving them the property. Council Member Timothy A. Ball asked if they had recourse if property owners consistently ran people off the property. City Attorney Rob Patterson stated that they could use normal enforcement or if there was a maintenance agreement, that would be a breach of the agreement and the City could remove the agreement from the property. Council Member Timothy A. Ball asked about if they had to make an improvement that would be benefit the City, would this fall under eminent domain. City Attorney Rob Patterson stated that because they still owned the property, they would be able to go in and make any necessary improvements. There was discussion on different improvements that might need to be made.

Council Member Kurt Ostler asked what would happen if someone had encroached on public property, put in a trampoline, and someone got hurt on the trampoline. He wanted to know the City's liability. City Attorney Rob Patterson stated that there would most likely be no liability for the City because they were not inviting people onto the property. Council Member Timothy A. Ball stated that it could be a distractive nuisance to which City Attorney Rob Patterson replied that it would be the responsibility of whoever put the distractive nuisance up. Council Member Scott L. Smith stated that they would have an agreement that they could not do these things so if they did these things, the agreement would protect them. Council Member Kurt Ostler stated that at one time there had been 270 encroachments on City property that they needed to address.

Council Member Kurt Ostler commented that in the list of what was not allowed, it stated anything that limited or restricted access to the property but on the allowed list it stated temporary fences around gardens for garden season and asked if the two conflicted or not. City Attorney Rob Patterson stated that since they were both in there, they did not conflict, and that improvements had to be approved by the City as part of the improvement plan regardless of what it was.

Council Member Kurt Ostler commented that in January they had done an open space moratorium and asked if this fell under the moratorium. City Attorney Rob Patterson replied that the purpose of the moratorium was broader than its actual effect. The moratorium only suspended the two City codes that disposed of open space and open space trails.

Council Member Kim Rodela commented that Council had gone and walked these properties and seen what was there and that it made sense to enter into agreements here. It beautified the land, took care of weeds, took care of the City not having to maintain it and she would like to approve the Abbotts, approve the Manwaring's, but that the LaMarr property was a little stickier because of the potential for a path so she would like to approve the grass going up to where staff would like to look at putting a path in. She stated that the discussion for open space could be saved for another night. Staff had been looking into the properties diligently to come up with plans so they didn't have to do this piece by piece and have more direction for City residents. Council Member Kurt Ostler asked about PI and metering and asked if they were okay about leaving out metering for now and discussing it more in the fall since it was proposed for the future. Council Member Scott L. Smith commented that the LaMarr's and Manwaring's already had meters and asked Council Member Kurt Ostler what he was proposing. Council Member Kurt Ostler suggested that they put in to the agreement that they abide by the PI metering fees. Council Member Kim Rodela stated that that was something that could be included in an overall plan. Council Member Kurt Ostler stated that he had no issues with the Abbotts' proposal and that he did not have a problem with letting the Manwaring's landscape up to the trail, but asked about setbacks along the trail. City Administrator/Community Development Director Nathan Crane stated that they had a 20-foot corridor with a 10-foot trail with 5 feet on each side.

Council Member Scott L. Smith stated that he agreed and supported the first two applications, but for the LaMarr property he would strongly recommend looking at that trail because it could be a trail to Ridgeline Elementary. He wanted to make the completion of the trail one of the priorities. He said he would be happy to spearhead an effort to finish that trail and would love to promote the completion.

Council Member Kurt Ostler stated he thought they should look into all of the unfinished trails and put some priorities. Residents were unaware that they had \$420,000 in open space fees that came from sales and they needed to look into the best spot to use this money.

Council Member Brittney P. Bills commented that she agreed that it would be a great project because it was a trail that was halfway unfinished. She would be interested to know more why RMP easement was on the east side, why the City had to look into providing for their trucks off the easement. City Administrator/Community Development Director Nathan Crane replied that that was only one option. He said they didn't have to do an intense project; they could have a simple 10' asphalt path if they wanted. Council Member Kurt Ostler stated that

RMP needed 5” asphalt and that he didn’t think it would be unreasonable to ask RMP to help pay for it because RMP knew it was always a trail corridor. City Administrator/Community Development Director Nathan Crane stated that the easement with RMP was issued in 1958. Council Member Brittney P. Bills stated that the Mayor had mentioned residents along Lighthouse Dr. entering into an agreement and she thought that at some point they were going to have to give staff clear direction about enforcement for encroachment. She said that they had people all over the City encroaching on open space and they needed to decide what they wanted to do about it. Council Member Kurt Ostler stated that he would like to see it put on resident’s utility bill whether or not they had an agreement and that when they sell property the new property owners be made aware of the agreements that came with the property. If there were people encroaching, they should be brought into compliance and if they did not, then the City should remove the agreement. Council Member Brittney P. Bills said they needed to back staff up and give them the resources they needed because this was a big project.

City Administrator/Community Development Director Nathan Crane read from the RMP easement agreement for Council.

*Council Member Kurt Ostler move that the City Council authorize staff to execute an open space maintenance agreement with Thad Abbott subject to the following stipulations:*

- 1. All improvements shall comply with the proposed maintenance plan dated May 26, 2020.*
- 2. No trees are permitted in the open space owned by Highland City.*

*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.*

**5. ACTION: APPROVAL OF OPEN SPACE MAINTENANCE PLAN FOR SHANE AND KAYLEE MANWARING FOR A PROPERTY IN THE CHAMBERRY FIELDS SUBDIVISION** *Administrative*

The City Council will consider a request by Shane and Kaylee Manwaring for open space maintenance plan for property adjacent to lot #111 in the Chamberry Fields Subdivision. The City Council will take appropriate action.

*Council Member Kurt Ostler MOVED that the City Council authorize staff to execute an open space maintenance agreement with Shane and Kaylee Manwaring with the following stipulations:*

- 1) Installation of the sprinklers shall be approved by the park’s superintendent.*
- 2) Type and placement of the trees shall be approved by the Park’s Superintendent and City Engineer.*
- 3) Grading of the lot shall be approved by the City Engineer.*
- 4) The maintenance plan shall be approved by Rocky Mountain Power.*
- 5) They will keep open the trail corridor on City property. The City will identify where the trail corridor will be.*

*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.*

**6. ACTION: APPROVAL OF OPEN SPACE MAINTENANCE PLAN FOR JACOB & LORI LAMARR FOR A PROPERTY IN THE BEACON HILL SUBDIVISION** *Administrative*

The City Council will consider a request by Jacob & Lori LaMarr for open space maintenance plan for property adjacent to lot #304 in the Beacon Hills Subdivision. The City Council will take appropriate action.

*Council Member Scott L. Smith MOVED that the City Council authorize staff to execute an open space maintenance plan with Jacob & Lori LaMarr subject to the following stipulations:*

- 1) All improvements shall comply with the proposed maintenance plan dated July 2, 2020.*
- 2) No trees are permitted in the open space owned by Highland City.*
- 3) The sprinkler system shall be approved by the Parks Superintendent.*
- 4) Instruct staff to map out where the future trail so LaMarr's can grass up to the trail corridor.*
- 5) Contact Rocky Mountain Power and coordinate access regarding road base in that area.*

There was discussion between City Administrator/Community Development Director Nathan Crane, Council Member Kurt Ostler, and Council Member Scott L. Smith regarding grassing up to the trail or follow the City guidelines and leave a 5 ft. area. City Administrator/Community Development Director Nathan Crane clarified that the City guidelines were with regards to purchase not maintenance agreements. Council Member Scott L. Smith commented that the houses along the trail north of Caddie Lanes had landscaped up to the trail and it was beautiful. He thought it helped to beautify the City. Council Member Kim Rodela agreed.

*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.*

*Note: The Meeting recessed at 9:28 pm. The Meeting reconvened at 9:30 pm.*

**7. ACTION: APPROVE AND AUTHORIZE THE MAYOR TO SIGN A CONTRACT WITH ROCK CANYON EXCAVATION FOR CONSTRUCTION OF THE VIEWPOINT FLOOD CONTROL CHANNEL PROJECT NOT TO EXCEED \$158,000** *Administrative*

The City Council will consider a request to approve a bid with Rock Canyon Excavation to proceed with the construction of the Viewpoint Flood Control Channel Project for \$158,000

and authorize the City Administrator and City Recorder to execute the necessary contract documents for the project. The Council will take appropriate action.

City Administrator/Community Development Director Nathan Crane stated that in 2018 they had a fire and a microburst in the area and since vegetation was scarred, water had come down and two houses had been severely impacted. He referenced the project map and showed where the property line between the City and the federal government as a wilderness area. Staff had gone up and cut a channel and since then they had been working with NRCS, the Forest Service, and others in order to do this project and trap water coming down the mountain. Their intention was to divert water south that would eventually come out of the channel and end up in the American Fork river. He stated that they had received funding of around \$71,000 with their match which gave them about \$92-93,000 for the project. They had done bids and the bids had come back much higher. This had to do with the specific rock required throughout the channel. The first bid was \$263,000 and the other one was \$212,000. He said that they knew they could not afford that, so they had gone back and worked with NRCS, and Rock Canyon Excavation to lower the cost the \$158,000 by adjusting the rock size. They were asking Council to authorize Rock Canyon Excavation to enter into a contract for this project and the funding would come from the City or NRCS. He stated that there would two scenarios that would come forward. 1. They knew the project exceeded the budget and they had started paperwork with NRCS to get additional funding. That additional funding above the 71 and 92 with the match would be split 50/50 with the City and NRCS. Signs pointed to them getting that funding, but they were not sure yet as nothing formal had been approved. If that plan progressed NRCS would provide around \$105,000 and the City would provide \$53,000. 2. If the plan were denied and NRCS did not provide that amount then the City would provide \$86,000 and NRCS would provide \$71,000.

City Administrator/Community Development Director Nathan Crane stated that they had a deadline of August 18 and that they had already pushed the deadline back once so the City was being counseled to have this done by that date to use the federal funding. He said that Rock Canyon was ready to go and could be done by that date. He referenced the map to illustrate the scope of the project. Council Member Kurt Ostler commented that there had been a fire that weekend and asked if it was in this area to which City Administrator/Community Development Director Nathan Crane replied that the fire was by their PI pond along SR-92. Council Member Scott L. Smith asked what NRCS stood for to which City Administrator/Community Development Director Nathan Crane replied, National Resource Conservation Service. Council Member Scott L. Smith asked what the chances were that they would get the higher amount to which City Administrator/Community Development Director Nathan Crane replied that it was looking good, but they did not know for sure. He said that either way if they get it or not, they will have to use the \$71,000 and we have to have it done by August 18.

*Council Member Brittney P. Bills MOVED that the City Council approve and authorize the City Administrator to sign a contract with Rock Canyon Excavation to proceed with the construction of the View Point Flood Control Project for \$158,000. Council Member Kurt Ostler SECONDED the motion.*

There was discussion regarding the response from the City and neighborhood during the flood.

*The vote was recorded as follows:*

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

*The motion passed 5:0.*

## **8. ACTION: MILLHAVEN DEVELOPMENT IS REQUESTING PRELIMINARY PLAT APPROVAL FOR A 10-LOT SUBDIVISION. THE PROPERTY IS**

## **APPROXIMATELY 10.21 ACRES AND IS LOCATED AT 6000 W EVERGREEN WAY** *Administrative*

The City Council will consider a request by Tyrell Gray representing Millhaven Development for a 10-lot subdivision approval located approximately at 6000 W Evergreen Way. The City Council will take appropriate action.

Planner & GIS Analyst Tara Tannahill clarified that the property was at 5400 W. Evergreen. The staff report had 6000 W, but it was 5400 W. The proposed plat would be a 10-lot subdivision in the R-140 zone that met the standards of the R-140 zone, with the exception of lot 5 which would be discussed. They had proposed piping the irrigation ditch to the north and a 20-foot public utilities trail property which would be owned by Highland City so they would dedicate that property to the City. Lot 5 was short on frontage due to the trail and public utility corridor. Staff was requesting that the City take ownership of that property rather than have an easement. They had noticed that in other areas with this situation, they had issues with emergency personnel accessing it quick enough. For citizen participation they had done a DRC June 4, 2020 in which four residents had attended via zoom and they had done the appropriate notifications for planning commissions, there were no notice requirements for City Council. Part of the planning commission meeting was that Mr. Beck would like to have the utilities stopped at the end of the road so he could connect to those utilities and would like the road alignment to be reviewed because there was a gap. Mr. Leavitt would like to continue to flood irrigate his property and allow the runoff to continue onto Millhaven property and would like the trees removed from his property. Planner & GIS Analyst Tara Tannahill stated that they had informed him that runoff needed to be contained per City ordinance on the property; however, it would need to be a private agreement between him and Millhaven. For Planning Commission action, they voted unanimously on June 23 to recommend approval. For the proposed motion number 1 would need to be reworded, subsequent to the planning commission meeting that had realized that the wording should have said that the final plat be in substantial conformance with the preliminary plat received on February 27, 2020 and staff was recommending adding a number 6, that the developer shall be responsible to acquire any right of way needed that did not currently exist.

Council Member Kurt Ostler asked why there would be an easement on lot 5 to which Planner & GIS Analyst Tara Tannahill replied it wouldn't be on lot 5 it would be next to lot 1 where there was a 20' parcel and that lot 5 was short on frontage space because they would be giving the City that 20' parcel instead of making it an easement. Council Member Kurt Ostler asked why they had not shifted lot 1 to which Planner & GIS Analyst Tara Tannahill replied that the City had wanted to retain ownership and did not want it to be an easement because there were utilities running through there. There was discussion about lot 1 becoming a dedicated parcel and parcel sizes.

Council Member Scott L. Smith asked how the City planned to maintain the area. Planner & GIS Analyst Tara Tannahill replied that they were proposing a native dirt trail and add it to the standard mowing schedule for native trails. They were not proposing an asphalt trail. Council Member Kurt Ostler asked where the trail went to which Planner & GIS Analyst Tara Tannahill replied that it just connected to streets. She stated that they would have to maintain it because of the utilities present. Council Member Scott L. Smith clarified that it would be a trail that connected two streets to which Mayor Rod Mann replied, correct.

Tyrell Grey, Millhaven Development, stated that Highland fit well into what they built, and they specialized in high end subdivisions and were especially excited about this subdivision. They were calling it Evergreen Farms because of the trees. He stated that their intention was to maintain and keep as many of the trees as possible. Council Member Kurt Ostler thanked Mr. Grey for keeping within the City zoning ordinances. Council Member Timothy A. Ball asked what the projected price points for the subdivision were to which Mr. Grey replied that the current pricing for the lots would start in the low 400's. He stated that they took pride in building high end homes and that this would be an exclusive building subdivision to Millhaven. Mr. Grey complimented the City and stated that they had done a great job taking care of their residents.

City Administrator/Community Development Director Nathan Crane stated that he had spoken to the Alpine City Administrator about the road connection and they were working on a general plan update to address road connections and that this one and another one were specifically excluded from that so there wouldn't be any issues.

*Council Member Kurt Ostler MOVED that the City Council accept the findings and approve case PP-20-01, a request for approval of the Evergreen Subdivision preliminary plat, subject to the five (5) stipulations recommended by Planning Commission and the additional one (1) stipulation added by City staff.*

- 1. The final plat shall be in substantial conformance with the preliminary plat received February 27, 2020.*
- 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.*
- 4. A six-foot (6') fence shall be installed along the trail and fencing shall comply with all of Highland City fencing standards.*
- 5. The 20' public utility and trail will need to be a dedicated parcel to Highland City.*
- 6. City Staff also recommends the following stipulation in addition to the 5 proposed by Planning Commission: The Developer shall be responsible to acquire any right of way needed that currently does not exist.*

*Scott L. Smith SECONDED the motion.*

*The vote was recorded as follows:*

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

*The motion passed 5:0.*

## **9. MAYOR/COUNCIL AND STAFF COMMUNICATION ITEMS**

### **a. Future Meetings**

- July 21, City Council Meeting, 7:00 pm, City Hall
- July 28, Planning Commission Meeting, 7:00 pm, City Hall
- August 4, City Council Meeting, 7:00 pm, City Hall
- August 18, City Council Meeting, 7:00 pm, City Hall
- August 25, Planning Commission Meeting, 7:00 pm, City Hall

Council Member Kurt Ostler would like to see the City Council meeting cancelled on July 21 because some staff would be absent.

Council Member Scott L. Smith commented that on December 3, 2019 they had talked about the Williams and Peck people and hooking up irrigation and he was wondering if they could discuss and get an update at a future meeting. City Administrator/Community Development Director Nathan Crane replied they were going to do it that evening, but necessary parties could not be present. He stated that a future works project session was tentatively set for September 8<sup>th</sup>.

## **ADJOURNMENT**

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

*The meeting adjourned at 9:57 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 July 7, 2020. This document constitutes the official minutes for the Highland City Council Meeting.



Stephannie Cottle  
City Recorder