



HIGHLAND CITY

HIGHLAND CITY COUNCIL AGENDA

October 18, 2016

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

7:00 P.M. REGULAR SESSION - CITY COUNCIL CHAMBERS

Call to Order – Mayor Mark Thompson

Invocation – Councilman Ed Dennis

Pledge of Allegiance – Councilman Dennis LeBaron

APPEARANCES (10 min.)

Time has been set aside for the public to express their ideas, concerns, and comments. *(Please limit your comments to three minutes each.)*

CONSENT (5 min.)

1. **MOTION: Approval of Meeting Minutes for the City Council Regular Session – October 4, 2016** 

ACTION ITEMS (30 min.)

2. **RESOLUTION: Appointment of a Highland City Representative to the North Utah Valley Animal Shelter Board** 
3. **MOTION: Approval of an Interlocal Agreement - Creating the North Utah County Aquifer Council.** 

MAYOR/ CITY COUNCIL & STAFF

DISCUSSION AND COMMUNICATION ITEMS (10 min.)

- Open Space Maintenance Agreement – Erin Welch  Assistant to the City Administrator

ADJOURNMENT



(These items are for information purposes only.)

Description	Requested/Owner	Due Date	Status
Road Capital Improvement Plan for FY 15-16 <i>Prioritize and Communicate to Residents</i>	City Council	Oct. 2016	In Progress
Determine Park Use for Recreation	City Council Parks Staff	2016	In Progress
PW Storage Building	City Council Mayor/PW	2016	In Progress
Election Policy	City Council Jody Bates	January 2017	In Progress
Options for Police and Fire Services PSD Sustainability	Mayor City Council		
Employee Pay Rate and Benefits Comparison	Mayor City Council		In Progress
Full Time Engineer	Nathan Crane		In Progress
Code Enforcement	Mayor Thompson		
Chamberry Open Space Maint. Agreement	City Council	Oct. 18, 2016	
Trees removal in Canterbury North	Public Works		
Phifferhorn Trails Reimbursement	Finance		

ELECTRONIC PARTICIPATION

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

CERTIFICATE OF POSTING

The undersigned duly appointed City Recorder does hereby certify that on this **13th day of October, 2016**, the above agenda was posted in three **public** places within Highland City limits. Agenda also posted on State (<http://pmn.utah.gov>) and City websites (www.highlandcity.org).

JOD'ANN BATES, City Recorder

- In accordance with the Americans with Disabilities Act, Highland City will make reasonable accommodations to participate in the meeting.
- Requests for assistance can be made by contacting the City Recorder at 801-772-4505, at least 3 days in advance to the meeting.
- The order of agenda items may change to accommodate the needs of the City Council, the staff and the public.

THE PUBLIC IS INVITED TO PARTICIPATE IN ALL CITY COUNCIL MEETINGS.

**MINUTES
HIGHLAND CITY COUNCIL MEETING**

Tuesday, October 4, 2016

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

PRESENT: Mayor Mark S. Thompson, conducting
Councilmember Brian Braithwaite
Councilmember Dennis LeBaron
Councilmember Tim Irwin
Councilmember Ed Dennis
Councilmember Rod Mann

STAFF PRESENT: Nathan Crane, City Administrator/Community Develop. Director
Erin Wells, Assistant to the City Administrator
Gary LeCheminant, Finance Director
JoD'Ann Bates, City Recorder
Tim Merrill, City Attorney

OTHERS: Andrew Tiberius, Brigham Cannon, Jason Gregory, Ryan Kitchen, Eddie Kitchen, Sean Whiffen, Judd Whiffen, Julie Probst, Jonathan Probst, Melissa Homan, Jeannie Spykes, Willard Spykes, Jeron Paul, Wesley Paul, Kathy Mead, Laura Harris, Brennan Bartlett, Andie Miske, Amy Cottle, Ronald Guyman, Braxton Juber, Ryley Thompson, Ryan Hackey, Ron Campbell, Craig Roberts, Ryan Roberts, Preston Munden, Brett Munden, Cooper Smith, Canyon Smith, Jean Whitney, Matthey Maby, Jake Clark, and Ryan Keisch.

The meeting was called to order by Mayor Mark S. Thompson as a regular session at 7:00 p.m. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting. The prayer was offered by Tim Irwin and those assembled were led in the Pledge of Allegiance by Brennan Bartlett, a scout.

Mayor Thompson invited Carli Field to introduce herself. Ms. Field stated that she was hired by Highland City to help at the front counter at City Hall and the courts.

APPEARANCES:

Amy Cottle, a resident, stated that she represented six residents from the Chamberry Fields Subdivision in need of an urgent resolution regarding the open space issues behind their homes. This open space was originally intended to be a walking trail, but the City has since removed that use from the area. There is a waterline on the open space property. As of this spring, the maintenance agreement has been revoked and they are unclear of the reason why. The neighbors would like the maintenance agreement to be reinstated.

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Councilman Ed Dennis commented that the maintenance agreement should be allowed in order to avoid the patchwork of landscaping and the ability to improve the property. He suggested that this item be placed on the next City Council Meeting agenda for further discussion. Councilmen Time Irwin and Brian Braithwaite agreed.

****Audio begins*

Nathan Crane stated that the maintenance agreement was taken away in lieu of the option to purchase the property. When this subdivision was brought before the City Council it was determined not to proceed with any development in the waterline corridor.

Councilman Ed Dennis opined that this was a good purpose for the maintenance agreement because it's not feasible to sell the property due to the location of the waterline. This area needs to be protected. If the maintenance agreement were reinstated then the residents could make the necessary improvements to upkeep the property.

CONSENT ITEMS:

- 1. MOTION: Approval of Meeting Minutes for the City Council Regular Session – September 20, 2016**

MOTION: Councilman Tim Irwin moved the City Council approve the consent item on the agenda.

**Councilman Ed Dennis seconded the motion.
Unanimous vote, motion carried.**

ACTION ITEMS:

- 2. PUBLIC HEARING / ORDINANCE – A request to rezone 5.76 acres from Town Center Flex Use and Town Center Commercial Retail to Planned Development (PD) to allow for a 220 unit age restricted units with up to 15,000 square feet of commercial space for property located at northwest corner of 10700 North and Alpine Highway (SR74)**

***BACKGROUND:** The site is designated as Mixed Use on the General Plan Land Use Map. The site is zoned Town Center Flex Use and Town Center Commercial Retail. In February 2016, the City Council approved an amendment to these districts eliminating future residential projects. All new residential projects are considered through a zoning text amendment. Staff has produced a comparison of the project with an 84-unit town home project. Eighty-four units is the maximum number of units that could be constructed on the site.*

Nathan Crane presented the background information above and explained that the proposal is consistent with the General Plan Land Use Map designation, and there is a goal in the General

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plan to provide a wider range of housing product options throughout the City, specifically senior housing. He then presented the concept plan that was submitted by the applicant, which includes 60 condominium units, 160 apartments, a 1,100 square foot clubhouse, and surface and underground parking. The Planning Commissions expressed a few concerns regarding the concept plan, so the applicant has revised the plan to mitigate those issues. The plan also showed 15,000 square feet of commercial space, and the applicant has proposed 45 parking stalls for commercial use. The applicant has also proposed to provide 1.25 parking spaces per residential unit, which is consistent with City Code requirements. The applicant had also submitted a traffic study, and the Planning Commission had specific concerns about 107000 North. The City Engineer would examine this intersection more thoroughly if the City Council approved this project. The Planning Commission held two public meetings for this application and recommended approval with the conditions outlined in the staff report.

McKay Christensen, the applicant, presented a slide presentation of the project and identified the changes that had been made to the concept plan since the last time he presented to the City Council. He explained what was being done to mitigate the issues was suggested by the Planning Commissioner Members and neighbors.

Mayor Thompson opened the Public Hearing at 7:31 pm.

Kathy Mead, a resident, stated that she had sent an email to the City Councilmen, but was unsure if they had had the opportunity to read it prior to the meeting. Ms. Mead represented the residents of the Highland Village and Highland Town Center neighborhoods, and they are all adamantly opposed to this development. She stated that it was a mistake to assume that the absence of residents at the City meetings for this development or their lack of input was an indication that they don't care about this project. The neighbors have chosen to remain silent as a reflection of their cynicism toward the City for approving the Toscana and Blackstone projects against the residents' wishes. They feel like their concerns were falling on deaf ears. Ms. Mead commented that the City Council should do what is best for Highland, not the developer. She also believed that Highland City should maintain its rural feel rather than having such high density housing.

Hearing no further comments Mayor Thompson closed the Public Hearing at 7:36 pm and brought the discussion back to the Council.

Councilman Dennis LeBaron assured Ms. Mead that the residents' concerns were not falling on deaf ears. The City Ordinance was changed in February of that year to stop residential development in the town center for a period of time. Highland is a rural City and is primarily zoned R-1-40. Councilman LeBaron stated that this proposal does not meet the vision of the City, in his opinion. He explained that the Toscana and Blackstone projects were approved because they met Code requirements which were established by a previous City Council that had a desire to see some higher density residential in the town center. In the case of this proposal, the City Council has the ability to choose whether to approve this application or to deny it.

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Councilman LeBaron was not comfortable with the proposed density and believed that the City needed to wait for a different proposal.

Councilman Rod Mann commented that the project itself was very attractive and well-designed. In regards to the other high-density projects in the area, he stated that the City has yet to see the effects of the Blackstone project, as it has not been built yet. He did not think it was wise to approve another project until the City fully understood the results of what has already been approved.

Councilman Ed Dennis stated that the subject property has been sitting idle for more than 15 years and the City has delayed development because they are waiting for the ideal project to be proposed. He wondered about the risks involved with leaving the property vacant again.

Councilman Brian Braithwaite commented that it is easier to oppose change than to accept it. He wanted to be sure that the Council was mostly opposed to the project for legitimate reasons rather than just taking the easier route. He questioned what the right type of project would be if it's not the one being proposed. Councilman Braithwaite confirmed that he does struggle with the proposed density, but the property owner does have the right to develop their property. He stated that he was not ready to move forward with such a large project within Highland City.

Councilman Tim Irwin was concerned that the City Council was not considering the 4-0 vote of the Planning Commission recommending approval of the application. He trusted that the Planning Commission had done their research on the issue and had discussed all of their concerns. The Planning Commission has previously been most restrictive as it relates to high density, so he found it interesting that they would recommend approval. Councilman Irwin did not believe that the proposed project would have as large of an impact on the community as Toscana and Blackstone because of the age restriction, and the 15,000 square feet of commercial space would invite the much-needed retail businesses into Highland City.

Councilman Ed Dennis added that the developer has revised the concept plan to factor in everything that did not work with the previous two large developments, as well as taking in the comments from the Planning Commission and residents.

Councilman Brian Braithwaite argued that this project would have a large impact on the City because it would add more density to an area that was already high in density. There were aspects of the project that he found attractive, but he was still not comfortable with the entire proposal.

Councilman Dennis LeBaron suggested the City Council wait for another proposal for the subject property.

Councilman Rod Mann addressed the issues with the retail aspect of the Toscana and Blackstone developments, and explained how they differ from the proposed Applecreek project.

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McKay Christensen was asked about the results of the traffic study, and he explained that they focused on the daily trips generated by both the residential use and the potential commercial uses. In regards to the project itself, Mr. Christensen assured the City Council that Applecreek would be completely different from what Blackstone will be. Although there are more residential units proposed, the overall impact to the community will be less. He also stated that four public meetings were held for this project and only four residents came, and he has only received six emails. Mr. Christensen has made a genuine effort to respond to all of the concerns that have been voiced. In regards to the property owners, Mr. Christensen stated that they cannot afford to allow the property to sit vacant for another 20 years. It is likely that the owners will sell to a commercial developer, and the City may be faced with approving a commercial proposal that they do not like. The proposed Applecreek would accommodate a demographic of aging Highland residents and invite retail uses into the town center. Mr. Christensen urged the Council to consider approving the project.

Councilman Ed Dennis agreed that there was a great need for this type of housing in Highland City, and they are currently turning away valuable citizens because of this deficiency. He also stated that a mixed use was more palatable than a large box-store retail use. This proposal seemed to be a nice compromise.

Jeannie Sykes, the property owner, encouraged the City Council to approve the proposal.

MOTION: Councilman Tim Irwin moved the City Council approve a Ordinance to rezone 5.76 acres from Town Center Flex Use and Town Center Commercial Retail to Planned Development (PD) to allow for a 220 unit age restricted units with up to 15,000 square feet of commercial space for property located at northwest corner of 10700 North and Alpine Highway (SR74) with the proposed stipulations.

Councilman Ed Dennis seconded the motion.

Those voting aye: Tim Irwin and Ed Dennis.

Those voting nay: Dennis LeBaron, Brian Braithwaite, and Rod Mann

Motion failed with a 2-3 vote.

3. PUBLIC HEARING/RESOLUTION: Recommended Mid-Year Budget Adjustments – Fiscal Year 2016-2017

***BACKGROUND:** Each fiscal year after the budget has been approved in June, it is sometimes necessary to make adjustments to various expense and revenue accounts because of unplanned or unforeseen needs or that forecasts/estimates of revenue or expenses have turned out different from the original budget numbers. Normally mid-year budget adjustments would be done in January, but since the approval of the utility rate increases at the end of June 2016 were not included in the approved budget for fiscal year 2017, it is better to make those adjustments now rather than wait until January. Most of the adjustments for this first quarter relate to the City's enterprise funds. Some changes are due to the rate increases approved for the Pressurized*

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Irrigation Fund and the Storm Sewer Fund and other changes are due to the utility rate study identifying maintenance and capital expenditures that are expected to take place this fiscal year. In addition, since the PI utility rates have gone up and the City Council decided to let the PI fund charge the General Fund for watering its parks, there is an adjustment for this expense also.

Gary LeCheminant, Finance Director, gave the background information listed above and presented a detailed list of the budget items to be adjusted.

Mayor Thompson opened the Public Hearing at 8:34 pm. Hearing no comments Mayor Thompson closed the Public Hearing and brought the discussion back to the Council.

MOTION: Councilman Ed Dennis moved the City Council approve a Resolution for Mid Year to the 2016-2017 Fiscal year Budget Adjustments as proposed by the Finance Director

Councilman Tim Irwin seconded the motion.

Those voting aye: Rod Mann, Brian Braithwaite, Dennis LeBaron, Tim Irwin and Ed Dennis.

Those voting nay: None

Unanimous vote. Motion carried.

MAYOR, CITY COUNCIL & STAFF COMMUNICATION ITEMS

(These items are for information purposes only and do not require action or discussion by the City Council)

- Mayor Thompson reported that an RFP (Request for Proposal) has gone out for the Developmental Center on the 7.5 acre property discussed in a previous meeting. It was confirmed that the City would be able to charge the Developmental Center with impact fees, even though it is located on State property. There was some discussion as to whether the project would create revenue for the City.



- Nathan Crane updated the City Council on the issue with the Canterbury subdivision parking area that was raised by a resident during the previous meeting. After meeting with Police Chief Gwilliam, staff has decided to pursue the installation of a sign posting the park hours, as well as a few other things that are still being discussed.

Mayor Thompson was not in favor of removing the parking area altogether, as it was intended to provide parking for the neighborhood park rather than the trail system.

Councilman Braithwaite argued that the City had chosen to create a parking area out of a stubbed road, and he was not opposed to closing the parking area down.

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There was some discussion about how the closure of the Canterbury parking area would affect the Mitchell Hollow parking area. Other solutions were discussed, such as restriping the area and trying to increase positive park activity to push out the bad activity.

Councilman Dennis LeBaron asked that items such as these be included on the City Council agendas when requested, even if progress has not been made. He worried that important issues would slip through the cracks.

ADJOURNMENT

MOTION: Councilman Tim Irwin moved to adjourn.

Councilman Ed Dennis seconded the motion.

Unanimous vote. Motion carried.

Meeting adjourned at 9:02 p.m.

JoD'Ann Bates, City Recorder

Date Approved: October 18, 2016



CITY COUNCIL AGENDA REPORT ITEM # 2

DATE: Tuesday, October 18, 2016
TO: Honorable Mayor and Members of the City Council
FROM: JoD'Ann Bates, City Recorder
SUBJECT: RESOLUTION: Appointment of a Highland City Representative to the North Utah Valley Animal Shelter Board

STAFF RECOMMENDATION:



Council discuss and determine councilmember that would like to be a representative of Highland on the NUVAS Board.

BACKGROUND:

Highland City was recently contacted by a resident indicating that Highland did not have a representative serving on the North Utah Valley Animal Shelter Board (NUVAS). We then contacted the Director of NUVAS and inquired as to the process of having someone appointed to the NUVAS Board. The director confirmed that there had not been anyone appointed to represent Highland City since Councilman Jessie Schoenfeld left the council the end of December 2015.

Past appointments to various boards have been done by resolution, making it an official appointment.

FISCAL IMPACT:

No impact

ATTACHMENTS:

1. Proposed Resolution

RESOLUTION NO. R-2016-**

**A RESOLUTION OF THE
HIGHLAND CITY COUNCIL
APPOINTING MEMBER REPRESENTATIVE
North Utah Valley Animal Shelter Board
(_____)**

WHEREAS, the Board of County Commissioners of Utah County and several cities in Utah County initiated proceedings to create a special service district to provide animal shelter services within northern Utah County to be known as the North Utah Valley Animal Special Service District (the "District"); and

WHEREAS, the District will be governed by a Board of Directors and the Highland City Council desires to make a representative appointment to that Board; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF HIGHLAND, UTAH, as follows:

1. That _____, Highland City Councilmember is hereby appointed as its representative to the North Utah Valley Animal Shelter Board, together with such alternate or alternates as the shall be appointed.
2. That this resolution shall remain in effect until repealed by another resolution appointing a different representative to the North Utah Valley Animal Shelter Board.
3. The provisions of this resolution shall take effect immediately upon passage.

PASSED and APPROVED this 18th day of October, 2016.

HIGHLAND CITY

Mark S. Thompson
Mayor, Highland City

ATTEST:

JoD' Ann Bates
Highland City Recorder

COUNCILMEMBER	YES	NO
Brian Braithwaite	<input type="checkbox"/>	<input type="checkbox"/>
Dennis LeBaron	<input type="checkbox"/>	<input type="checkbox"/>
Tim Irwin	<input type="checkbox"/>	<input type="checkbox"/>
Ed Dennis	<input type="checkbox"/>	<input type="checkbox"/>
Rod Mann	<input type="checkbox"/>	<input type="checkbox"/>



CITY COUNCIL AGENDA REPORT ITEM # 3

DATE: Tuesday, October 18, 2016
TO: Honorable Mayor and Members of the City Council
FROM: Mark Thompson, Mayor
SUBJECT: MOTION: Approval of an Interlocal Agreement Creating the North Utah County Aquifer Council

STAFF RECOMMENDATION:

Approval of an Interlocal Agreement Creating the North Utah County Aquifer Council.

BACKGROUND:

In 2009, Highland City signed an Interlocal Agreement to become part of a coalition to perform a feasibility study regarding the potential for recharging the ground water in Utah County. The group was called the North Utah County Aquifer Association.

The Association had the power to conduct a feasibility study regarding the potential of recharging the ground water. The study was managed by the Central Utah Water Conservancy District. The Board could not incur debt or contractual liability in excess of \$250,000. The Association has been meeting since 2009. The feasibility study has been completed. It was presented to the Council in a work session earlier this year. The Association has since been dissolved. Mayor Thompson has been serving on the Association Board.

It is now proposed that the North Utah County Aquifer Council be created. The purpose of the Council are as follows:

- Study, review, evaluate, and analyze all aspects of surface and groundwater resources in north Utah County.
- Review and coordinate specific groundwater projects.
- Serve as an advisory board to the legislative bodies.

The General Powers of the Council is to have the power to plan, oversee, coordinate, review, advise, assist, share information and foster cooperation among the Members in the promotion and implementation of Member Groundwater Projects, in an effort to facilitate

and coordinate aquifer recharge and storage within north Utah County, while minimizing the negative impacts of excessive groundwater withdrawals by the Members from the common aquifers as development occurs.

The Council does not have the power to tax or assess and collect fees or spend more than the assessments paid by its Members as provided herein; however, the Council shall have the power to apply for, receive and administer grants from federal, state and/or private sources for use in fulfilling its purposes, powers and functions.

FISCAL IMPACT:

The specific cost of the association has not been identified. The Mayor believes the costs will be between \$5,000 and \$7,000. There would also be a cost to the City if the Council decides to pursue any projects such as testing, etc. There is no cap on cost of the project.

ATTACHMENTS:

1. Proposed Agreement

**INTERLOCAL AGREEMENT
CREATING THE NORTH UTAH COUNTY AQUIFER COUNCIL**

THIS INTERLOCAL AGREEMENT (“Agreement”) is made and entered into as of the ____ day of _____, 2016 (the “Effective Date”), under the authority of the Utah Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Ann. 1953, as amended (the “Act”), and specifically Section 11-13-203 of the Act, by and among Central Utah Water Conservancy District, a water conservancy district organized under the laws of the State of Utah, and the following Utah municipal corporations situated within northern Utah County: Pleasant Grove City, American Fork City, Highland City, Alpine City, Lehi City, and Saratoga Springs City (all being hereinafter sometimes referred to herein collectively as the “Members,” and individually as a “Member”).

WITNESSETH

WHEREAS, it is generally recognized and agreed among the Members that the limited surface water and groundwater resources in north Utah County are hydrologically connected and directly interrelated; and

WHEREAS, each of the Members, under the authority of their respective water rights, own surface water diversion structures, groundwater wells and other facilities from and through which they each draw water from the common surface and groundwater sources of supply available in north Utah County for diversion and use within their respective service areas; and

WHEREAS, the Members each recognize the need to plan and work together in preserving, protecting and where possible enhancing the critical water resources they share in common as each of the Members continues to develop their respective water systems in satisfaction of the demands of continuing population growth in north Utah County; and

WHEREAS, under the auspices of a now dissolved interlocal agency previously formed among the Members, an Aquifer Storage and Recovery Feasibility Study (the “ASR Study”) was commissioned and completed which investigated the potential for recharging the ground water in north Utah County in accordance with the authority of the Utah Groundwater Recharge and Recovery Act; and

WHEREAS, the ASR Study recommended several potential Aquifer Storage and Recovery (“ASR”) projects that would benefit the groundwater resources in north Utah County; and

WHEREAS, the Members have contributed to the preparation of and have reviewed various planning studies and documents commissioned for the purpose of investigating the surface and groundwater resources in north Utah County, including, but not limited to, the following:

- (1) Conjunctive Management of Surface and Groundwater in Utah. State of Utah Natural Resources, Division of Water Resources, July, 2005.

(2) Hydrology of Northern Utah Valley, Utah County, Utah, 1975 – 2005, Scientific Report 2008-5197, U.S. Department of Interior, U.S. Geological Survey.

(3) Three Dimensional Numerical Model of Groundwater Flow in Northern Utah Valley, Utah County, Utah. Scientific Investigation Report 2008-5049. U.S. Department of the Interior, U.S. Geological Survey.

(4) North Utah County Groundwater Recharge Study, Highland City, Department of Public Works, January, 2009

(5) Aquifer Storage and Recovery (ASR) Feasibility Study, North Utah County Aquifer Association, Prepared by Hansen, Allen, & Luce, Inc., August, 2012.

(6) Utah Lake Basin Planning for the Future. June, 2014. Utah State Water Plan. Utah Division of Water Resources.

WHEREAS, it is the intent of the Members that all Groundwater Projects be developed by one or more Members under their individual water rights through projects funded and completed by the individual Member or Members pursuing the project; and

WHEREAS, given the hydrologic connectivity of the surface and groundwater sources of supply in north Utah County, the common interests of all the Members in the continued diversion and use of the same groundwater supply, and the inevitability of increased withdrawals by the Members from these sources, the Members have determined it to be in the best interest of each of the Members individually, and in their mutual common interest and the interests of the citizens whom they serve, that an interlocal council be established among the Members, the purpose and function of which is to coordinate and facilitate the on-going planning and development of groundwater resources in north Utah County and Member Groundwater Projects as they develop, as more particularly set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the Members contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned Members hereby agree as follows:

ARTICLE I CREATION AND NAME

Pursuant to and in conformance with the requirements of Section 11-13-202 of the Act, the Members hereby create the NORTH UTAH COUNTY AQUIFER COUNCIL (the “Council”), acting jointly and cooperatively in the fulfillment of its purposes, and having only those powers, enumerated herein and not as an interlocal entity as defined in the Act.

ARTICLE II MEMBERSHIP

2.1. Members. Each Member signatory to this Agreement, and each additional public agency, as defined in the Act, which is accepted for membership as provided in this Agreement and which shall hereafter sign this Agreement shall be a Member of the Council and be entitled to all rights, privileges and obligations of membership as provided herein.

2.2. Obligations of Membership. Each Member of the Council shall be obligated:

2.2.1. to duly appoint a representative to serve on the governing Board of the Council as provided in Section 4.1 herein, and to otherwise remain an active participant in the Council;

2.2.2. to timely pay when due annual and special assessments as shall be duly levied, by the Administrative Agency designated by the Council as set forth in Section 4.2 herein, from year-to-year to fund the Council's purposes, powers and functions as provided on this Agreement; and

2.2.3. to timely review, comment on and respond to matters submitted by the Board to the governing boards of the Council Members.

2.3. Donation of In-kind Resources. Members, at their sole discretion, may contribute resources via in-kind materials, equipment, facilities or services which benefit the Council; however, any such contribution shall not be accepted in lieu, partially or in full, of payment of assessments duly levied by the Administrative Agency as provided herein in Section 4.2.2(a) herein, unless otherwise approved by the Board.

2.4. Suspension and Termination of Membership. Membership in the Council may be terminated in conformance with the following:

2.4.1. Voluntary Withdrawal.

(a) Any Member which desires to withdraw from the Council may do so by its governing body adopting a resolution of withdrawal to be submitted to the Council's governing board as defined herein.

(b) The withdrawal and termination of membership shall be effective as of the end of the Council's then current fiscal year. Withdrawal of a Member does not relieve the Member's obligation to pay its annual financial obligations to the Council for the then current fiscal year as set forth in Article V, or its share of obligations and liabilities incurred prior to withdrawal.

(c) A Member terminating its membership shall have no interest in the assets of the Council unless it is a Member at the time of dissolution of the Council.

(d) A Member who withdraws its membership shall have no further obligations to the Council and the Council shall have no further obligations to the withdrawn Member, except as

otherwise expressly provided for herein. The fact that a Member has previously withdrawn its membership or its membership has been cancelled shall not prohibit said Member from rejoining the Council pursuant to the authority of Section 2.5 herein.

2.4.2. Failure to Pay Assessments. The failure by a Member to pay assessments when due shall result in the suspension of that Member's membership for a period of sixty (60) days unless payment is sooner made in full. The failure to pay the past due assessment by the end of the 60-day suspension period shall result in the termination of membership effective immediately as of said date.

2.4.3. Agreements Not Affected. Each Member of the Council acknowledges and agrees that the withdrawal of any Member from this Agreement pursuant to Section 2.2 shall not adversely affect this Agreement nor any other contractual relationship between the withdrawing Member and any other Member under this Agreement.

2.5. Subsequent Membership. Prospective Members who do not initially approve and become signatories to this Agreement, or who have withdrawn and wish to reapply, or who are newly created entities may join and become signatories to this Agreement upon approval of, and pursuant to conditions duly established by the Board, on a case-by-case basis.

ARTICLE III PURPOSES, POWERS AND FUNCTIONS OF THE COUNCIL

3.1. Purposes, Powers and Functions. The purposes, powers and functions of the Council shall be as follows:

3.1.1. Study and Evaluate Groundwater Resources. The Council shall have the power to study, review, evaluate and analyze all aspects of surface and groundwater resources in north Utah County for the purpose of:

(a) accumulating and disseminating to Members and other public agencies information pertaining to: (i) the hydrogeologic interactions between surface and groundwater resources; (ii) resource sustainability trends; (iii) the protection and optimal utilization of surface and groundwater resources; and (iv) the potential and methodology for recharging groundwater aquifers; and

(b) establishing general surface and groundwater protection and development criteria that can be considered by Members and other public agencies having jurisdiction over the north Utah County surface and groundwater resources; and

(c) providing for public input, participation, and education on issues relating to the use, protection, and development of surface and groundwater resources in north Utah County.

3.1.2. Review and Coordination of Specific Groundwater Projects; Procedure.

(a) For the purposes of this Section, the term "Groundwater Project(s)" shall be

defined to mean: (i) the design, drilling, testing and operation of wells from which groundwater is to be produced and diverted from known groundwater aquifers within north Utah County; (ii) the design, drilling, testing and operation of ASR projects through which water is to be injected and stored within and withdrawn from groundwater aquifers within north Utah County; and (iii) the design, testing and operation of other surface and/or groundwater facilities; any of which may have the potential to either adversely impact or contribute to and assist in the recovery of groundwater resources in north Utah County.

(b) Each Member proposing to initiate a Groundwater Project (“Sponsoring Member”), shall, no later than ten (10) working days prior to the next meeting of the Board, first submit to the Council, and to each of the other Members, a written detailed description of the Groundwater Project, together with the engineering, hydrologic and other technical data and materials generated and utilized by the Sponsoring Member as its basis for proceeding with the Groundwater Project (collectively, the “Project Proposal”).

(c) At the meeting at which the Project Proposal is formally presented to the Board, the Sponsoring Member shall present a detailed explanation of the proposed project and answer questions.

(d) Each of the other Members shall have 90 days from the date of the Board meeting at which the Project Proposal is first presented (the “Project Review Period”), to review and consider the Project Proposal and determine whether to join as a co-sponsor of the Groundwater Project. A decision by a Member to participate as a co-sponsor of a Groundwater Project shall be submitted in writing to the Council and the Sponsoring Member prior to the end of the Project Review Period, unless the time is extended by the Board.

(e) The Board shall review and evaluate the water rights and water right change applications, recharge applications, recovery applications, and other applications and submittals as may be required of the Sponsoring Member by other State, federal or local entities having jurisdiction over the Groundwater Project, for the purpose of identifying, addressing and assisting in the resolution of potential conflicts among the Members as a result of the Groundwater Project. Notwithstanding the foregoing, it is understood and agreed that the Council shall have no authority to veto or otherwise alter any Groundwater Project, and any Member may, in its discretion, protest any water right change application, or other application as provided by law.

(f) If there is more than one sponsor of an Groundwater Project, the co-sponsors shall, by separate interlocal agreement among them, set forth the terms and conditions pursuant to which the Groundwater Project shall be planned, designed, funded, developed, administered, constructed, owned, operated, accounted for, maintained, repaired, renewed and replaced. If there are no co-sponsors for an Groundwater Project, the Sponsoring Member shall, at its sole expense, plan, design, fund, develop, administer, construct, own, operate, account for maintain, repair, renew and replace the Groundwater Project.

(g) In the case of either a single sponsored or co-sponsored Groundwater Project, the Sponsoring Member(s) of the Groundwater Project shall provide to the Council periodic updates and reports with respect to all aspects of the Groundwater Project during the course of its design, construction, and operation. The Council shall coordinate, review and report on all aspects of each Groundwater Project to the other Members of the Council in order to foster cooperation and promote maximum utilization of the groundwater resources among the Members, and to assist in the prevention and resolution of disputes among the Members pertaining to Groundwater Projects within north Utah County.

3.1.3. Advisory Resource to Members. The Council shall serve as an advisory body to the Members' governing bodies concerning proposed and ongoing Groundwater Projects and other projects involving groundwater sources of supply in north Utah County. Actions taken by the Board are not binding on a Member unless ratified by that Member's governing body.

3.1.4. General Powers. The Council, in general, shall have the power to plan, oversee, coordinate, review, advise, assist, share information and foster cooperation among the Members in the promotion and implementation of Member Groundwater Projects, in an effort to facilitate and coordinate aquifer recharge and storage within north Utah County, while minimizing the negative impacts of excessive groundwater withdrawals by the Members from the common aquifers as development occurs. The Council shall not have the power to tax or assess and collect fees or spend more than the assessments paid by its Members as provided herein; however, the Council shall have the power to apply for, receive and administer grants from federal, state and/or private sources for use in fulfilling its purposes, powers and functions.

3.2. No Superseding Authority. The Members hereby acknowledge and agree that the Council shall have no authority to supplant or otherwise interfere with any right, power or authority belonging to any individual Member under the Utah Constitution, state law, or any county or municipal ordinance, or by virtue of any other power or powers specifically given to them; nor does the Council have superseding authority over other government entities and jurisdictions. The Council shall likewise have no authority to require any alteration to the duly adopted plans or decisions of any Member or other agency or jurisdiction; however, the Board may, in the common interest of the Council, recommend changes to the duly adopted plans or decisions of any Member, agency or jurisdiction, and each Member agrees, in good faith, to duly consider any such recommendation made.

ARTICLE IV GOVERNANCE

4.1. Governing Board.

4.1.1. Membership and Appointment. There is hereby created a governing board of the Council (the "Board"), which shall consist of one representative from each Member duly appointed by the governing body of the Member. To serve on the Board, the Member representative shall hold public office or be employed with the Member and have responsibility for the Member's public works related to the diversion and use of water and the development and management of the Member's water supply.

Each Member shall also appoint an alternate Member representative to serve on the Board in the absence of the regular Board member.

4.1.2. Board Terms. Board members shall serve until replaced by another representative appointed by the Member.

4.1.3. Compensation. Board members shall serve without compensation and shall have all Council-related expenses paid by their appointing Member.

4.1.4. Leadership. The Board shall have a Chair and Vice-Chair elected by and from the members of the Board, whose term shall be for a period of one year. Board members can be reelected on an annual basis. In the absence of the Board chair, the responsibility for conducting Board meetings or signing documents shall vest in the Vice-chair.

4.1.5. Regular Meetings. The Board should hold at least two regularly scheduled meetings within each fiscal year to accomplish the objectives of the Council. Inasmuch as the Board is defined as a public body under the Utah Open and Public Meetings Act, Utah Code Ann. Section 52-1-103(9)(b), all meetings shall be conducted subject to and in conformance with provisions of said act. The meeting date, time, and agenda will be established by the Chair or by a majority vote of the Board.

4.1.6. Quorum; Voting. The attendance of a majority of the members of the Board at a meeting of the Board shall constitute a quorum for the transaction of the business of the Board. Each Board member shall be entitled to vote on all matters brought before the Board for a decision. A majority of the total votes cast by Board members at a meeting at which a quorum is present, shall constitute the approving action of the Board.

4.1.7. Minutes. The Board shall cause to be kept minutes of all meetings of the Board. As soon as possible after each meeting, a draft copy of the minutes shall be forwarded to the Board.

4.1.8 Notice of Meetings. Notice to Board members shall be sufficient if delivered in writing or by e-mail one week in advance, at the address or e-mail address which shall be required to be provided by each Board member to the Council.

4.1.9 Requests for Information. The Board shall see that all of its Members are informed regarding all activities of the Council and, accordingly, shall cause a copy of all materials to be considered at a meeting by the Board to be delivered one week in advance of the meeting to the individual Board members and to such other persons as the Member may request in writing, in such manner as it deems appropriate, including meeting agendas and minutes of past meetings.

4.1.10 Board Powers and Duties. The Board shall have the following powers and duties: (i) the power to elect the Chair and Vice Chair of the Board; (ii) the power to recommend proposed changes to this Agreement that must be approved by the Members' governing bodies; (iii) the power to adopt budgets, work plans, amendment of budgets or the allocation or reallocation of budgeted

amounts between budget categories; (iv) the power to establish rules and guidelines governing its own conduct; and (v) the power to govern, administer and implement directly or indirectly the powers, purposes and functions for which the Council was created.

4.1.11 Records. The records of the Council shall be made available to the governing body and/or legal counsel of each Member upon written request.

4.1.12. Annual Work Plan. The Board shall establish an Annual Work Plan (“Work Plan”), which shall serve as a guideline for the Council’s activities and the basis for the levy of assessments by CUWCD pursuant to Section 4.2.2(a) for the upcoming fiscal year. The Work Plan will also identify long-range plans and objectives to be used for directing the efforts of the Council and as the basis of estimating future assessment obligations of the Members. The Board shall consider related studies performed by the public or private entities in its review of the Work Plan. The Board will approve the Work Plan by March 15 of each year for the ensuing fiscal year beginning on July 1, and submit copies to each Member.

4.2. Council Administrator.

4.2.1. Designated Council Administrator. The Central Utah Water Conservancy District (“CUWCD”), is hereby designated and authorized to act as the Council Administrator.

4.2.2. Powers and Duties. The Council hereby delegates to CUWCD, in its capacity as Council Administrator, the following powers and duties:

(a) To levy assessments against the Members for the purpose of generating revenues sufficient to accomplish the purposes of the Council, which revenue shall be collected and separately accounted for by CUWCD on its books and financial records;

(b) To apply for, receive and administer federal, state and local grants, and other private grants and donations from private persons and organizations to be utilized in accomplishing the purposes and powers of the Council;

(c) To disperse funds and incur such financial obligations in behalf of the Council as shall be determined by the Board to be in the best interest of the Council and its Members; and

(d) Within the limits of revenues received, to employ agents and consultants, and to make and enter into contracts in behalf of the Council, including, without limitation, contracts with the federal government; the State of Utah; any county, municipality, local district or other governmental agency; any private foundation or organization; any business or other entity; and/or any individual; which are deemed by the Board to be in furtherance of the purpose and powers of the Council, as approved by the Board in its sole discretion,

4.2.3. Obligations Inure to the Council, not its Members. No obligation, debt and/or

liability of the CUWCD acting in behalf of the Council shall constitute an obligation, debt or liability of any of the Council's individual Members.

4.2.4. Procedures.

(a) Procurement Procedures. All services and materials procured by CUWCD in behalf of the Council shall be procured pursuant to the rules, regulations and policies of CUWCD in conformance with applicable State law.

(b) Financial Procedures. The financial affairs of CUWCD, acting in its capacity as the Council Administrator, shall be conducted in compliance with the provisions of Utah Code Ann. §17B-1-601, Fiscal Procedures for Local Districts, and generally accepted accounting principles for governmental entities. CUWCD shall promulgate appropriate policies for the accounting, methods of maintaining accounts, the payment of obligations, the preparation of annual budgets, and all other financial affairs with respect to its responsibilities as the Council Administrator.

4.2.5. Financial Records; Fiscal Year.

(a) Financial Records. CUWCD shall keep and maintain, or cause to be kept and maintained, adequate and correct financial records, including accounts of its assets, liabilities, receipts, and disbursements pertaining to its responsibilities as Council Administrator. Financial reports shall be provided to the Members at least twice a year. All financial records which are maintained by the District in its capacity as the Council Administrator shall be open during all reasonable business hours for inspection by duly authorized representatives of each Member and shall be deemed to be public records under applicable Utah law.

(b) Fiscal Year. The Council shall operate on, and all funds of the Council shall be accounted for, on a fiscal year basis, commencing on July 1 and ending on June 30 of each year.

4.2.6. Member Approval of Assessments; Subject to Availability of Funds.

(a) All assessments levied by CUWCD against each Member shall be subject to approval by the governing body of each Member as a condition to its obligation of payment, subject to the provisions of Section 2.3 herein.

(b) The obligation of any Member to pay assessments or otherwise contribute to the funding of the Council as provided herein is subject to the availability and annual appropriation of funds by that Member's governing body. Each Member nevertheless agrees to act in good faith in fulfilling its funding obligations hereunder.

**ARTICLE V
LIABILITIES AND OBLIGATIONS**

5.1. Governmental Immunity. In entering into this Agreement, the Members do not waive, and are not waiving, any immunity provided to the Members or their officials, employees, or agents by the Utah Governmental Immunity Act, Title 63G, Chapter 7, Utah Code, or by other law.

5.2. Waiver of Obligations. This Agreement shall not relieve any Member of any obligation or responsibility imposed upon it by law.

5.3. Obligations Special and Limited. The obligations entered into by each Member pursuant to this Agreement are special limited obligations of each Member, and nothing herein shall be construed or give rise to a general obligation or liability of any Member or a charge against its general credit or taxing powers.

ARTICLE VI TERM

The term of this Agreement shall begin on the Effective Date and be perpetual unless this Agreement is sooner terminated by dissolution pursuant to the provisions of Section 8.1 herein, or by operation of law.

ARTICLE VII DISSOLUTION OF THE COUNCIL

7.1. Dissolution of the Council by Vote. The Council may be dissolved at any time pursuant to a resolution of dissolution submitted by the governing bodies of two-thirds (2/3) of the then current Members.

7.2. Powers of Board Upon Dissolution. The Board is vested with all powers necessary for the purpose of winding up and dissolving the business affairs of the Council consistent with and subject to the limits of this Agreement.

7.3. Division of Assets. Upon dissolution and after payment in full of all outstanding Council obligations, the Board shall equitably disburse the assets of the Council, if any, to the then current Members. After deducting costs, any assets jointly shared shall be disbursed pro rata among the Members, unless otherwise agreed by the Members.

ARTICLE VIII MISCELLANEOUS PROVISIONS

8.1. Complete Agreement. The foregoing constitutes the full and complete Agreement of the Members with respect to the subject matter hereof. There are no oral understandings or agreements with respect thereto which are not set forth in writing herein.

8.2. Binding Effect. This Agreement shall bind the Members and their respective successors-

in-interest.

8.3. Amendment. This Agreement may be amended at any time by the written approval of two-thirds (2/3) of the then current Members signatory to it.

8.4. Prohibition Against Assignment. No Member may assign any right, claim, or interest it may have under this Agreement, and no creditor, assignee, or third party beneficiary of any Member shall have any right, claim, or title to any asset of the Council.

8.5. Severability Clause. In the event that any article, provision, clause, or other part of this Agreement should be held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability will not affect the validity or enforceability with respect to other articles, clauses, applications, or occurrences, and this Agreement is expressly declared to be severable.

8.6. Captions. The captions to the various Sections of this Agreement are for convenience and ease of reference only and do not define, limit, augment, or describe the scope, content, or intent of this Agreement or any part or parts of this Agreement.

8.7. Breach of Agreement. The failure of a Member to substantially comply with the material terms and conditions of this Agreement shall constitute a breach of this Agreement. A Member shall have thirty (30) days after receipt of written notice to correct the conditions specified in the notice, or if the corrections cannot be made within the thirty (30) day period, within a reasonable time if corrective action is commenced within ten (10) days after receipt of the notice. After notice, if corrective action is not taken, the Board may take appropriate action including revocation of the breaching Member's membership.

8.8. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

8.9. Warranty of Authority. The individuals executing this Agreement on behalf of the Members hereby warrant that they have the requisite authority to execute this Agreement on behalf of the respective Members and that the respective Members have agreed to be and are bound hereby.

ARTICLE IX ATTORNEY APPROVAL; RECORDS FILING

9.1. Attorney Approval. This Agreement shall be submitted to an authorized attorney for each Member for approval as to form in accordance with Utah Code Ann. Section 11-13-202.5(3).

9.2. Records Filing. A copy of this duly executed Agreement shall be placed on file in the office of the official record keeper of each public agency that is a Member hereto and shall remain on file for public inspection during the term of this Agreement.

SIGNATURE PAGE

**INTERLOCAL AGREEMENT
CREATING THE NORTH UTAH COUNTY AQUIFER COUNCIL**

IN WITNESS WHEREOF, the undersigned Member has executed this Agreement upon an approving resolution duly and lawfully passed to become effective on the Effective Date first set forth above.

**CENTRAL UTAH WATER CONSERVANCY
DISTRICT**

By _____
Gene Shawcroft, General Manager

Date: _____

APPROVAL AS TO FORM:

By _____
Attorney

SIGNATURE PAGE

**INTERLOCAL AGREEMENT
CREATING THE NORTH UTAH COUNTY AQUIFER COUNCIL**

IN WITNESS WHEREOF, the undersigned Member has executed this Agreement upon an approving resolution duly and lawfully passed to become effective on the Effective Date first set forth above.

PLEASANT GROVE CITY

By _____

Its:

Date: _____

APPROVAL AS TO FORM:

By _____

Attorney

SIGNATURE PAGE

**INTERLOCAL AGREEMENT
CREATING THE NORTH UTAH COUNTY AQUIFER COUNCIL**

IN WITNESS WHEREOF, the undersigned Member has executed this Agreement upon an approving resolution duly and lawfully passed to become effective on the Effective Date first set forth above.

AMERICAN FORK CITY

By _____

Its:

Date: _____

APPROVAL AS TO FORM:

By _____

Attorney

SIGNATURE PAGE

**INTERLOCAL AGREEMENT
CREATING THE NORTH UTAH COUNTY AQUIFER COUNCIL**

IN WITNESS WHEREOF, the undersigned Member has executed this Agreement upon an approving resolution duly and lawfully passed to become effective on the Effective Date first set forth above.

HIGHLAND CITY

By _____

Its:

Date: _____

APPROVAL AS TO FORM:

By _____

Attorney

SIGNATURE PAGE

**INTERLOCAL AGREEMENT
CREATING THE NORTH UTAH COUNTY AQUIFER COUNCIL**

IN WITNESS WHEREOF, the undersigned Member has executed this Agreement upon an approving resolution duly and lawfully passed to become effective on the Effective Date first set forth above.

ALPINE CITY

By _____

Its:

Date: _____

APPROVAL AS TO FORM:

By _____

Attorney

SIGNATURE PAGE

**INTERLOCAL AGREEMENT
CREATING THE NORTH UTAH COUNTY AQUIFER COUNCIL**

IN WITNESS WHEREOF, the undersigned Member has executed this Agreement upon an approving resolution duly and lawfully passed to become effective on the Effective Date first set forth above.

LEHI CITY

By _____

Its:

Date: _____

APPROVAL AS TO FORM:

By _____

Attorney

SIGNATURE PAGE

**INTERLOCAL AGREEMENT
CREATING THE NORTH UTAH COUNTY AQUIFER COUNCIL**

IN WITNESS WHEREOF, the undersigned Member has executed this Agreement upon an approving resolution duly and lawfully passed to become effective on the Effective Date first set forth above.

SARATOGA SPRINGS CITY

By _____

Its:

Date: _____

APPROVAL AS TO FORM:

By _____

Attorney



ADMINISTRATION DEPARTMENT MEMORANDUM

DATE: Tuesday, October 18, 2016
TO: Honorable Mayor and Members of the City Council
FROM: Erin Wells, Assistant to the City Administrator
SUBJECT: Communication on Open Space Maintenance Agreements

In the October 4, 2016 City Council Meeting, Amy Cottle petitioned City Council to remove the moratorium for Open Space Maintenance Agreements. Amy lives on Grenoble Drive in Chamberry and said that she and her neighbors would like to improve the Open Space behind their homes before the new homes on Beacon Meadows Drive were built. City Council directed staff to do research and bring this item back to City Council.

A general history on Open Space Maintenance Agreements and Chamberry Subdivision is as follows:

- Prior to August 2010 – Maintenance agreements were being issued with no formal process
- August 3, 2010 – City Council issued a moratorium on Maintenance Agreements
- November 3, 2010 – City Council adopted formal Maintenance Agreements and Applications
- November 16, 2010 – City Council adopted Municipal Code 12.28 *Private Maintenance of Public Open Space Property*. The moratorium then began to be lifted on a subdivision by subdivision basis upon approval of a Subdivision Maintenance Plan.
- February 5, 2013 – City Council adopted Municipal Code 12.32 *Designation of Open Space Property Disposal*. This essentially ended Maintenance Agreements.

It is staffs' understanding that there were some concerns with the current Maintenance Agreement. If council wishes to reinstitute Open Space Maintenance Agreements, staff requests direction on any proposed updates and the updating process City Council would like us to follow.

ATTACHMENTS:

1. Private Maintenance of Public Open Space Property (MC 12.28)
2. Open Space Maintenance Application
3. Open Space Maintenance Agreement
4. Edited Draft of Designation of Open Space Property for Disposal (MC 12.32)

Chapter 12.28 - PRIVATE MAINTENANCE OF PUBLIC OPEN SPACE PROPERTY

Sections:

12.28.010 - Purpose.

The purpose of this chapter is to allow private maintenance of public open space property in areas that are beneficial to the residents of Highland.

(Ord. No. 2010-19, § 2(Exh. A), 11-16-2010)

12.28.020 - Definitions.

For the purpose of this chapter the following words and phrases shall have the following meanings:

"Open space land" means land owned by the city and designated by the city for the use of the residents of Highland.

"Open space maintenance agreement" means an agreement between the city and a private property owner allowing for the maintenance of specifically defined public open space property.

"Open space maintenance review committee" means a committee consisting of the city administrator, city engineer and community development director and two residents appointed by the mayor. The resident appointees shall be Highland residents that reside in open space subdivisions. The resident appointees shall serve two year terms and may be reappointed at the discretion of the mayor.

"Open space subdivision maintenance plan" means a plan approved by the city council which specifies publicly owned land that is available for private maintenance and the level or type of landscape improvements that can be installed by a private property owner for a specific subdivision.

(Ord. No. 2010-19, § 2(Exh. A), 11-16-2010)

12.28.030 - Submittal requirements.

An application for private maintenance of a public open space area shall contain:

1. Completed application form and fee.
2. Completed open space maintenance agreement.
3. A conceptual landscape plan with scale no less than one inch equals ten feet.
4. Additional information as specified by the city administrator.

(Ord. No. 2010-19, § 2(Exh. A), 11-16-2010)

12.28.040 - Public notice.

No application shall be acted upon without first providing public notice as follows:

- A. All property owners within two hundred fifty feet of the exterior boundaries of the property subject to the application, including the proposed area for maintenance, as shown on the last assessment of the property shall be sent notice by first class mail, postmarked at least fourteen days prior to the open space maintenance review committee acting upon the application. It shall be the responsibility of the city to mail the notice. Resident will provide addressed and stamped envelopes of property owners within two hundred fifty feet of the exterior boundaries of the applicant's property and subject property.
- B. A notice shall be posted on or near the property in at least one location on a form prescribed by the city administrator. The posted notice shall be placed on the property at least fourteen days prior to the open space maintenance review committee acting upon the application. It shall be the responsibility of the applicant to post and maintain the sign for the entire fourteen days.
- C. Notwithstanding the notice requirements set forth in this section, the failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the action for which the notice was given.

(Ord. No. 2010-19, § 2(Exh. A), 11-16-2010)

12.28.050 - Review and approval.

- A. All applications for open space maintenance agreements shall be transmitted to the open space maintenance review committee for review.
- B. The private maintenance review committee shall make the following findings before approving an open space maintenance agreement:
 1. That the proposed improvements are consistent with and meet the requirements of the open space subdivision maintenance agreement approved by the city council.
 2. That the proposed agreement will not be materially detrimental to the health, safety or general welfare of homeowners, persons residing, or working within the neighborhood of the proposed agreement, or have an adverse effect on the property, or adjacent properties.
 3. That the proposed improvements will not be materially detrimental to the city irrigation lines and existing landscape (ex: shrubs and trees).
- C. The open space maintenance review committee may approve, approve with conditions, or deny any application after review of the application. The open space maintenance review committee may

place any conditions which are deemed necessary to mitigate potential impacts and ensure compatibility of the use with surrounding development and the city, and which are required to preserve the public health, safety and general welfare.

- D. The city administrator may approve an open space maintenance agreement in accordance with subsection B. if, upon completion of the public notice as required in Section 8.17.040 there are no citizen or open space maintenance review committee opposition to the request. The city administrator may also place conditions upon the application in accordance with subsection C.

(Ord. No. 2010-19, § 2(Exh. A), 11-16-2010; Ord. No. 2011-17, § 2, 8-2-2011)

12.28.060 - Appeal.

- A. The action of the open space maintenance review committee may be appealed to the city council by the applicant or any interested party. Such requests for appeal must be filed on an application form provided by the city administrator within fourteen days following the date of the open space maintenance review committee action.
- B. The city council shall act to affirm or reverse, in whole or in part, or modify the open space maintenance review committee's decision. Any action to grant an open space maintenance agreement, either through affirmation, modification, or reversal of the open space maintenance review committee's decision, must include required findings as provided in this chapter.

(Ord. No. 2010-19, § 2(Exh. A), 11-16-2010)

12.28.070 - Open space maintenance agreement.

Prior to installation or construction of any improvements, the property owner shall enter into an open space maintenance agreement on a form approved by the city council. The agreement shall allow the city to access and maintain the property as needed for public infrastructure installation and maintenance. Said agreement shall be recorded with the Utah County Records Office and be maintained in the office of the city recorder. Ownership of property remains with the city and the agreement does not imply any transfer of ownership of the land.

(Ord. No. 2010-19, § 2(Exh. A), 11-16-2010)

12.28.080 - Open space subdivision maintenance plan.

The city council shall approve a open space subdivision maintenance plan. The open space subdivision maintenance plan shall identify the property which is eligible for private maintenance, the type and level of landscape improvements, and any conditions associated with private maintenance of the property.

(Ord. No. 2010-19, § 2(Exh. A), 11-16-2010)

12.28.090 - Effect of approval.

All open space maintenance agreements shall be valid for a period of ten years from the date a open space subdivision maintenance plan is approved by the city council. Said agreement shall renew automatically for two years unless the agreement is canceled by the city or property owner within twelve months of the term expiration.

(Ord. No. 2010-19, § 2(Exh. A), 11-16-2010)

12.28.100 - Irrigation.

The property owner shall be responsible for all costs associated with the irrigation system of the improved area. Additionally, the property owner shall coordinate with city staff on any alteration and/or repair of city irrigation systems within the private maintenance area.

(Ord. No. 2010-19, § 2(Exh. A), 11-16-2010)

OPEN SPACE MAINTENANCE AGREEMENT

An AGREEMENT by and between Highland City hereinafter referred to as "CITY" and _____, owner of real property located at _____, Highland, Utah, hereinafter referred to as "RESIDENT" allowing the RESIDENT to maintain City open space property.

WHEREAS, the CITY has determined that the subject property is not fully improved; and WHEREAS, the RESIDENT agrees to assume all responsibility for the maintenance of the subject property.

NOW, THEREFORE, LET IT BE AGREED AS FOLLOWS:

- 1) RESIDENT owns property adjacent to the subject property within an open space subdivision.
- 2) CITY agrees to allow RESIDENT to assume exclusive maintenance of the subject property.
- 3) CITY and RESIDENT jointly agree that after _____, 20___, this agreement will continually renew automatically in two year time periods unless CITY or RESIDENT are notified at least 12 months prior to the anniversary date of this agreement.
- 4) CITY and RESIDENT agree that CITY does not have responsibility to provide any material, water, or maintenance of the subject property.
- 5) RESIDENT agrees to improve and maintain the subject property with approved vegetation, trees and bushes as outlined by the attached drawing of planned improvements, with no structures on City Property.
- 6) RESIDENT further agrees that the maintenance for the subject property will include regular mowing, fertilization, watering and weeding.
- 7) Property not improved as outlined in the attached drawing of planned improvements within 365 days of the date of this agreement, or subject property not maintained for a period of 30 days in accordance with this agreement will be subject to cancellation of this agreement. Prior to cancellation of this agreement CITY shall notify RESIDENT and give RESIDENT 30 days to install or maintain the improvements.
- 8) CITY further agrees to maintain any public trails within the subject property.
- 9) RESIDENT agrees to indemnify CITY against any claims by RESIDENT related to the improvements installed under this Agreement.
- 10) The conditions attached to this agreement have been approved by the Highland City Council specific to RESIDENT'S subdivision and are considered part of this agreement.
- 11) RESIDENT acknowledges that this agreement shall be recorded at the Utah County Recorder's Office. This Agreement shall be binding upon RESIDENT and RESIDENT'S heirs, successors and assigns.
- 12) RESIDENT acknowledges and agrees that this Agreement does not create any right, title, interest, in favor of RESIDENT, in or to the Improved City Open Space, notwithstanding the improvements installed at RESIDENT'S expense. RESIDENT further agrees not to prohibit or diminish in any way, the rights of the public to use the Improved City Open Space.

13) RESIDENT is responsible for any alteration or repair of CITY'S irrigation system, if required, on subject property.

RESIDENT

Agreed to and dated this the _____ day of _____, 20_____

Printed Name of Resident

Printed Name of Resident

Signature of Resident

Signature of Resident

State of Utah
County of Utah

On this the _____ day of _____, 20_____, before me, the undersigned notary, personally appeared, who proved to me his/her identity through documentary evidence in the form of a _____ to be the person whose name is signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

My commission expires on the _____ day of _____, 20_____.

Notary Public

CITY

Agreed to and dated this the _____ day of _____, 20_____

Printed Name of City Representative

Title of City Representative

Signature of City Representative

Attested

12.32.090 - Disposal of property.

- A. If a parcel has been designated for disposal the property shall be sold in accordance with Utah Law and Chapter 2.44 Disposal of Public Property.
- B. All of the property designated for disposal shall be purchased so that there are no isolated parcels to be owned and/or maintained by the city. If one or more parcels of city-owned property in a subdivision is not purchased then all the city open space owned property in the subdivision cannot be disposed of under this ordinance. The city council may approve exceptions to this requirement if the city-owned property can be accessed without the need to cross private property.
- C. If the city council chooses not to dispose of an open space property, council may designate the area eligible for Open Space Maintenance Agreements as defined by Highland City Municipal Code Chapter 12.28.

(Ord. No. 2013-03, § 2(Exh. A), 2-5-2013; Ord. No. 2014-06, § 2, 4-1-2014)