

2 The Lindon City Council held a regularly scheduled meeting on **Tuesday, February 4,**
3 **2014 at 7:00 p.m.** in the Lindon City Center, City Council Chambers, 100 North State
4 Street, Lindon, Utah.

6 **REGULAR SESSION** – 7:00 P.M.

7 Conducting: Matt Bean, Mayor Pro Tem
8 Pledge of Allegiance: Van Broderick, Councilmember
9 Invocation: Jake Hoyt, Councilmember

10 **PRESENT**

11 Matt Bean, Councilmember
12 Randi Powell, Councilmember
13 Van Broderick, Councilmember
14 Jacob Hoyt, Councilmember
15 Adam Cowie, City Administrator
16 Cody Cullimore, Chief of Police
17 Hugh Van Wagenen, Planning Director
18 Kathryn Moosman, City Recorder

10 **ABSENT**

11 Jeff Acerson, Mayor

19 **1. Call to Order/Roll Call** – The meeting was called to order at 7:05 p.m.

21 **2. Presentations/Announcements** –

22
23 a) **Mayor/Council Comments** – Councilmember Powell mentioned the Healthy Lindon
24 Challenge “Go for the Goal” with the Winter Olympics being the mentor of this
25 challenge. She noted the kickoff will be February 17th and the tracking sheet will be
26 on the city website with more information. Councilmember Powell encouraged those
27 in attendance to participate.

28
29 b) **Utah Honor Flight** – Robert Franson, representing Utah Honor Flight, and Randy
30 Edwards, with the American Foreign Legion, presented information to inform the
31 Council regarding “Utah Honor Flight” a non-profit organization created to honor
32 America's veterans for all their sacrifices by transporting them to Washington, D.C. to
33 visit and reflect at national veteran’s memorials. Mr. Franson commented that they
34 utilize this forum (City Council meetings) to identify and provide applications to
35 veterans in the area. Mr. Edwards commented that they have had the privilege to
36 represent 70,000 veterans in Utah County alone and it is a privilege to recognize and
37 honor these veterans. Mr. Franson then presented a short video about the Utah Honor
38 Flight program. Mayor Pro Tem Bean thanked Mr. Franson for his presentation and
39 commended him for his service and dedication to the Honor Flight Program and
40 noted the City will do anything they can to help identify veterans in the city.

41
42 c) **Proclamation Non-Traditional Student Awareness Week** – Trisha Nelson,
43 representing Utah Valley University, provided information on promoting non-
44 traditional students to pursue post-secondary opportunities. Ms. Nelson noted that
45

2 they are requesting that the Mayor declare, by proclamation, the week of February
24th to March 1st as “Non-Traditional Student Awareness Week”. Ms. Nelson noted
4 that non-traditional students are classified as those students who were not finishing
their degrees or going to college right out of high school. She added that her position
6 requires her to recruit and raise awareness. Ms. Nelson noted that this is a Governor’s
initiative and call to action to get 66% of students between the ages of 20 and 64 to
8 come back to college and get a degree or certificate. Ms. Nelson noted they will
accommodate all types of students and are very family friendly and want the students
10 to feel welcome. They will also promote different demands and student awareness so
people don’t feel alone. Ms. Nelson added they will also be having activities on
12 campus. She invited the Council to attend an upcoming basketball game and gave
tickets to the Councilmembers. She noted that she can get more tickets if needed and
14 to contact her by email at tnelson@uvu.edu or call 801-863-8731 for more
information. Mayor Pro-Tem Bean then read the proclamation and thanked Ms.
Nelson for the presentation and information.

- 16
- 18 **3. Approval of Minutes** – The minutes of the regular meeting of the City Council of
January 21, 2014 and the City Council work session of January 15, 2014 were
reviewed.

20

22 COUNCILMEMBER HOYT MOVED TO APPROVE THE MINUTES OF THE
MEETINGS OF JANUARY 15, 2014 AND JANUARY 21, 2014 AS AMENDED.
COUNCILMEMBER BRODERICK SECONDED THE MOTION. THE VOTE WAS
24 RECORDED AS FOLLOWS:
COUNCILMEMBER POWELL AYE
26 COUNCILMEMBER BEAN AYE
COUNCILMEMBER BRODERICK AYE
28 COUNCILMEMBER HOYT AYE
THE MOTION CARRIED UNANIMOUSLY.

- 30
- 32 **4. Consent Agenda** – No items.

- 34 **5. Open Session for Public Comment** – Mayor Pro Tem Bean called for any public
comment not listed as an agenda item. There were no public comments.

36 **CURRENT BUSINESS**

- 38 **6. Review and Action** – *Major Subdivision – Long Orchard*. This is a request by Bryon
Prince, on behalf of Ivory Development, for approval of an eleven (11) lot
40 subdivision located at approximately 400 East and 170 South on approximately 6.7
acres in the Residential Single Family (R1-20) zone. The Planning Commission
42 recommends approval.

44 Hugh Van Wagenen, Planning Director, led the discussion by giving a brief
summary of this application stating this is a request by Ivory Development for approval
46 of an eleven (11) lot subdivision named Long Orchard on approximately 6.7 acres. Mr.

2 Van Wagenen then presented photos of the location of the future street system. Mr. Van
3 Wagenen explained that when a subdivision covers only a portion of a larger un-
4 subdivided area, the applicant is required to submit a sketch proposing a future street
5 system that demonstrates how the balance of un-subdivided land could be developed. Mr.
6 Van Wagenen explained that in order to accomplish this, Ivory spoke with the home
7 owner to the north, Miles Batty. Following their discussion it was conceived that a road
8 could be stubbed to Mr. Batty's property, with a temporary turnaround, in order to
9 facilitate future development. Mr. Van Wagenen noted that Mr. Batty hoped to gain two
10 potential lots from the road passing through his property. However, when the conceptual
11 layout was drawn, there was not enough acreage to facilitate two lots and the roadway on
12 Mr. Batty's property, and at that point, Mr. Batty was not interested in a road being
13 stubbed to his property. Mr. Van Wagenen then referenced the concept sketch provided
14 by the applicant. He noted that following the discussion with Mr. Batty, Ivory decided to
15 keep the roadway entirely within the subdivision, and a standard cul-de-sac will then
16 service Lots 105 and 106 which are shown in the preliminary submittal.

17 Mr. Van Wagenen went on to say that even with the cul-de-sac not stubbing to
18 Mr. Batty's property, there are still some potential road options that could develop the
19 interior of the block. Mr. Van Wagenen then referenced the sketches of the development
20 of the Batty/Whitmer properties with a cul-de-sac street from 400 East, also the
21 development of the interior with a cul-de-sac road from Center Street. Mr. Van Wagenen
22 stated that the eleven (11) lots proposed in the Long Orchard Subdivision meet minimum
23 lot size requirements and street frontage requirements. He added that there are no unusual
24 or unique requests regarding this subdivision and it is pretty straightforward as far as the
25 layout and development.

26 Mr. Van Wagenen stated that during the Planning Commission meeting, a
27 neighbor expressed concerns over current irrigation water drainage of the orchard. He
28 noted that with this in mind, the Planning Commission unanimously recommended
29 approval of the preliminary plat including the condition that the drainage details are
30 worked out with the City Engineer. Mr. Van Wagenen stated that the storm water
31 engineering details have not been finalized, but any proposal will have to meet the City
32 Engineer's approval before receiving final plat approval, regardless of any condition of
33 approval placed on the preliminary plat.

34 Bryon Prince, representing Ivory Homes, addressed the Council at this time. Mr.
35 Prince expressed that Ivory is excited to build another beautiful community here in
36 Lindon. Councilmember Hoyt asked if the houses will be similar to the houses in the
37 Cullimore Court subdivision. Mr. Prince stated that the homes will be more comparable
38 to the Orchard Farms subdivision off of Locust Lane, which will have the look and feel,
39 the product, the floor plan and the price point of that subdivision. Mr. Prince noted that
40 they will offer the "Mainline Catalog" which offers just under 30 floor plans to choose
41 from because of the restriction that will be put on the square footage.

42 Councilmember Powell expressed her concerns about land locking the Whitmer
43 property, not so much in conjunction with this development, but because of the inability
44 to make it work with the back parcel (Batty property) if they were to sell. Mr. Van
45 Wagenen noted that he spoke with the Batty's about different options they have moving
46 forward. He added that the Batty's came to the Planning Commission meeting and they
47 expressed that they still feel comfortable with the options they have going forward and

are willing to explore those options. Following some additional general discussion regarding this agenda item Mayor Pro Tem Bean called for a motion.

COUNCILMEMBER POWELL MOVED TO APPROVE THE ELEVEN (11) LOT MAJOR SUBDIVISION TO BE KNOWN AS LONG ORCHARD.

COUNCILMEMBER HOYT SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

COUNCILMEMBER POWELL	AYE
COUNCILMEMBER BEAN	AYE
COUNCILMEMBER BRODERICK	ABSTAIN
COUNCILMEMBER HOYT	AYE

THE MOTION CARRIED WITH 3 AYES AND 1 ABSTENTION.

7. Review & Action — *Appeal of Decision Regarding Storm Water Utility Fee.* The Council will review and consider an appeal by Leonard Lee, with LA LEE ENTERPRISES, of an administrative denial of a request for a 50% credit and/or refund of storm water utility fees paid from October 1997 through December 2013 for the properties located at 115 South State Street and 119 South State Street.

Mr. Cowie led the discussion by stating Leonard Lee (who was in attendance) has provided an appeal letter for storm water fees, including supplemental information, on his properties located at 115 and 119 South State Street. Mr. Cowie noted, per city records, these properties were not eligible for a 50% credit on storm water utility fees.

Mr. Cowie then gave a background summary and noted that in September of 1997 Lindon City adopted a storm water ordinance and utility fee to help cover the cost of storm water collection, treatment, and transport. He noted the ordinance allowed the City to grant a credit for developments that met certain standards for retaining and treating storm water generated from their properties. Mr. Cowie stated that in 1997 it was determined to grant a 50% reduction on storm water fees for sites that met city standards. He noted that Mr. Lee's buildings at 115 & 119 South State were constructed prior to the City adopting a Storm Water Utility Fee.

Mr. Cowie explained that during 1997 and early 1998 it appears that ample opportunity, through public meetings, letters etc., was provided for non-residential property owners to be informed of the storm water program. He noted that opportunity was provided for property owners, with existing developments, to come and meet with the City and request that the storm water credit be granted if their properties met the City standards. He further noted that while there is an indication that multiple property owners did take the opportunity to meet with the City and have their sites inspected, there is no indication that 115 & 119 South State Street properties ever requested to be inspected for storm water compliance, so, the full storm water utility fee was applied to both properties and has been invoiced accordingly since that time.

Mr. Cowie went on to say that it appears, per city records, a written letter was sent to 170 non-residential properties with an opportunity given to talk to the city and see if their site would be eligible for the stormwater utility fee credit. The letter, written on October 2, 1997, outlined the various meeting dates that occurred, and also general information regarding the utility fee. Again, it appears these properties were noticed but

2 did not take the opportunity to speak with the city or take the credit. In 1998 there were
also several meetings held with property owners and it seems that the city assumed that
4 notification had occurred and, starting from a clean slate, any new development from that
point on would be required to address the storm water issue at the time of their site plan
approval for new construction. Mr. Cowie noted there was a building permit issued on
6 115 South in the year 2000, but it appears that because it was a remodel, the storm water
fees were not re-evaluated and were not assessed any impact or utility fees.

8 Mr. Cowie stated that it is his understating, from Mr. Lee's comments and letters,
that he was not informed of the credit and the opportunity to apply for the credit to be
10 provided. Mr. Cowie went on to say these sites were developed prior to the ordinance
adoption in 1997, so there would not have been a discussion on the credit opportunity.
12 Mr. Cowie stated that staff has determined that Mr. Lee, or other property
representatives, did not take advantage of opportunities made available to receive the
14 storm water credit. He added that Staff believes the 1997 efforts by the City to inform
property owners of the utility fee and credit is sufficiently clear.

16 Mr. Cowie discussed that in the fall of 2013 Mr. Lee approached the City
regarding the credit and the sites were subsequently inspected and approved to receive
18 the 50% reduction in fees beginning December 2013. He further discussed that since
adoption of the Storm Water ordinance in 1997, the City's typical procedure for granting
20 a 50% credit of the utility fee is handled during the site plan approval process when a
new building is constructed. He added that besides this process, staff is unaware of any
22 additional city-wide campaigns or individual notifications to properties regarding the
storm water credit opportunity.

24 Mr. Cowie noted that they had a meeting with Mr. Lee and materials and dates
were provided to him and the issue was discussed in depth; the city has officially issued
26 an administrative denial of his request for repayment of the storm water fees (in this
meeting he was provided a copy of the storm water ordinance). Mr. Cowie explained
28 that since utility records are only kept for seven years, it cannot be determined, with
exactness, the total amount of utility fees paid since 1997. However, there is enough
30 information to estimate all potential storm water utility fee charges. He went on to say
that potential utility billing credit and/or repayment amounts have been calculated and
32 estimated that it would be a total of \$22,526.28 for both addresses on the 50% credit. Mr.
Cowie noted that previous City Engineer, Dave Thurgood's records show that only 19 of
34 the original 170 notifications were approved for the credit with no changes since then.

36 Mr. Cowie commented that it is unclear from Mr. Lee's appeal letter if he is
requesting a credit to his utility bill accounts or cash payment. He stated that he will let
Mr. Lee address that question. He noted a portion of the ordinance identified as Lindon
38 City Code 13.22.040(7) provides opportunity for an appeal of a storm water fee and any
action by the City Council would be final. He added that staff provided Mr. Lee with two
40 previous written denials of the request for credit/repayment of the storm water fee. Mr.
Cowie re-iterated that with receipt of Mr. Lee's appeal letter this matter is now to be
42 determined by the City Council.

44 Mr. Cowie then referenced the Storm Water Ordinance followed by some general
discussion:

LCC 13.22.040(7) – Storm Water Utility Fee.

2 7. Appeals. Any person or entity that believes that this ordinance, or any storm water
4 utility rate resolution, was interpreted or applied erroneously may appeal to the city
6 administrator. The appeal shall be in writing, shall state any facts supporting the appeal,
8 and shall be made within ten (10) days of the decision, action, or bill being appealed. The
10 city administrator may elect to hold a hearing on the appeal. The city administrator shall
12 respond to the appeal in writing within ten (10) days of when the appeal is filed. If the
14 person or entity is not satisfied with the city administrator's decision, a further appeal
16 may be made to the city council. The appeal to the city council shall follow the same
18 procedures as the appeal to the city administrator. The city council's decision shall be
20 final and binding on all parties.

22 Mr. Lee addressed the Council at this time. Mr. Lee commented that this issue is
24 not a legal matter but a moral matter. He stated that the question before the Council
26 tonight is this, “is it right that he has paid 50% more on his storm water utility fee since it
28 was instigated because he didn’t attend a meeting in 1997?” He noted that this is simply
30 a request not a demand, and the Council has the authority to grant this request. Mr. Lee
32 stated that a credit would be great and he is not asking the city to cut a check for \$22,000.
34 Mr. Lee commented that his business, Datapad, was supposedly noticed in 1997. He
36 doesn’t know if it was noticed or not, but he has paid 50% more for storm water than he
38 should have these past years. He noted that nothing has changed on his property since
40 1997.

42 Mr. Lee stated that he has called the city over the years to ask why his bill has
44 been so high, historically, and it appears that staff was not even aware there was a 50%
46 credit issued to properties. Mr. Lee stated that he contacted the city in November of 2013
and it was not until December of 2013 that he was given the credit, so, somewhere along
the way, administratively, it was decided that a property owner can come back and apply
for the credit and be given it, even though it was supposedly a one time deal back in
1997. He noted that it seems that if the property owners were aware that they were
eligible for a credit in 1998, they should have been able to go back and get the credit.

Councilmember Hoyt inquired if Mr. Lee will be eligible for the 50% credit
moving forward. Mr. Cowie confirmed that statement. Councilmember Broderick
inquired what the process is for a business owner to get the credit. Mr. Cowie stated that
a notification to the city is required to inspect the site for any improvements made on the
property and that it meets the stormwater requirement, the City Engineer would then go
out to the property and complete an evaluation and give a notification memo to the
Utilities Clerk who would then implement the credit.

Mayor Pro Tem Bean commented that one of the core issues here is if a city
makes a reasonable effort to inform its citizens about a specific issue that may impact
them, at what point does a citizen have a valid claim to say they weren’t made aware of
the issue so it shouldn’t move forward. He noted there are specific requirements under
the law for the city to notice property owners for certain situations, and the city tries to do
that and is successful most of the time. Mayor Pro Tem Bean asked if Mr. Lee felt, based
on his knowledge, that the city made a reasonable effort to notice property owners in
1997. Mr. Lee confirmed that he feels the city made a reasonable effort in 1997, but he
does not feel there was any subsequent information provided to a property owner who
now, in 2013, is told that their property qualifies for a credit, but there has been no

2 information presented since 1997 that would indicate that a property owner could come
back and discuss it. He added the reason there hasn't been is because the city has
4 changed its policy. Mr. Lee stated in all the rules of fair play, if he has been over charged
all of these years; this is an unusual circumstance and it should be made right, as it is a
moral request and a moral matter.

6 Mayor Pro Tem Bean stated that even moral issues have ramifications that can be
deep and broad, and this issue appears to have potentially deep and broad financial
8 ramifications for the city. He also questioned what ongoing duty does the city have to
inform its citizens regarding city policy and ordinances, and if a Mayor, City Council
10 member or staff, is trying to determine this issue, at what point is the clock stopped. Mr.
Lee suggested, in this specific instance, to qualify this to properties that have class 5
12 injection well pumps, which would limit it to approximately 70 businesses in Lindon.

14 Mayor Pro Tem Bean commented that despite the fact that it could be limited to
certain types of wells, other business owners could come in stating they had other issues
that impacted the storm water to qualify. He noted that he is not sure he is ready to think
16 that would necessarily limit the cities liability. Mr. Lee stated that he appreciates Mayor
Pro Tem Bean's position, but, at the same time, it is a lot of money that he has paid over
18 the years for nothing, and he re-iterated that he is just asking for a credit not cash.

20 Mayor Pro Tem Bean stated that he realizes this is a large sum of money, but he
believes there is a place for any municipality to have to backstop some things, and where
the city's behavior wasn't egregious and didn't mismanage the process as far as we can
22 tell, then it leaves the city in a tough position.

24 Mayor Pro Tem Bean allowed for comments from the public at this time.
Resident in attendance, Dustin Sweeten, commented he was a property owner in 1997, in
the same area, and he does not recall receiving any kind of notice of that type as he would
26 have reacted to it. That being said, he doesn't feel the Council is making a decision over
this one incident, but making a decision over anyone who may have been improperly
28 charged during that time that would be able to come back and ask for a credit. Mr.
Sweeten agreed that it comes down to when is the backstop placed. Mayor Pro Tem
30 Bean mentioned another problem is that the city does not know what the condition of the
property was at that time. Mr. Lee stated that the property could be reviewed on aerial
32 photos. Mr. Cowie stated that it would be difficult to see the sumps etc. and nearly
impossible to make a factual assessment.

34 Councilmember Powell referenced a letter from December 14, 2013. She noted a
line in the letter that references an oversight. She asked Mr. Lee whose oversight he felt it
36 was. Mr. Lee stated, after reviewing the existing documents, that he felt that is was not
the city's oversight. Councilmember Powell also asked if he felt there was an oversight in
38 his bookkeeping. He agreed he did not have a clear tracking in his books, because he was
so busy developing in this area. Mr. Lee noted that he contacted the city several times
40 about his high bill and was told that is just what the charges are; no one bothered to tell
him about the available credit. He added that there is nothing on the utility bill that states
42 there was a 50% available credit on the storm water utility fee. Mr. Lee stated that he
understands Mayor Pro Tem Bean's comment about "opening the flood gates" but stated
44 on this particular issue he feels the gates should be open to make it right. He understands
this is not a usual request but he feels that he has spent a lot of money on stormwater
46 utility fees that shouldn't have been paid and there should have been information

2 reflected on the bill about the 50% credit from the start so the business property owners
were aware of it. Mr. Lee stated that he does not agree that there would be big
ramifications to the city.

4 Mayor Pro Tem Bean commented that he appreciates Mr. Lee's presentation and
expressed that he is sympathetic to his concerns, as there are certainly moral
6 ramifications to this issue, however, he is also concerned to move forward on something
like this again because of the other potentially deep ramifications it would have for the
8 city financially, and, because, as an elected official, he has a responsibility over the fiscal
matters of the city. Mayor Pro Tem Bean stated that it would be very difficult for him to
10 approve this without a legal opinion as to the potential ramifications.

12 Mayor Pro Tem Bean asked the Councilmember's for their opinions at this time.
Councilmember Powell stated that she has already made her opinion clear on this matter.
Councilmember Hoyt stated that he understands Mr. Lee's concerns and sympathizes
14 with this issue, but the city hasn't broken any rules and they have followed the guidelines
that are set in place, and noted that Mr. Lee will have the 50% from now on.
16 Councilmember Broderick stated that he is also sympathetic to this issue but feels the
Council has the responsibility to find out if there is a 90 day clause on the utility bill and
18 if so, to give the credit back 90 days from the first contact date (November).

20 Mayor Pro Tem Bean called for any further comments or questions from the
Council. Hearing none he called for a motion.

22 COUNCILMEMBER POWELL MOVED TO DENY THE APPEAL BY
LEONARD LEE FOR A 50% CREDIT AND/OR REFUND OF STORM WATER
24 UTILITY FEES PAID FROM OCTOBER 1997 THROUGH DECEMBER 2013 FOR
THE PROPERTIES LOCATED AT 115 SOUTH STATE STREET AND 119 SOUTH
26 STATE STREET. COUNCILMEMBER HOYT SECONDED THE MOTION. THE
VOTE WAS RECORDED AS FOLLOWS:

28 COUNCILMEMBER POWELL AYE
COUNCILMEMBER BEAN AYE
30 COUNCILMEMBER BRODERICK AYE
COUNCILMEMBER HOYT AYE
32 THE MOTION CARRIED UNANIMOUSLY.

34 **8. Public Hearing** – *Ordinance Amendments – Fencing Standards (Ordinance. #2014-*
7-0). This is a Planning Commission initiated request to amend fencing standards in
36 Lindon City Code 17.48.040 "Fencing and Screening" and 17.48.100(4)
"Landscaping", to remove the requirement that landscaping along street frontages in
38 the Commercial zones must contain 2-rail white vinyl fencing. The Planning
Commission recommends approval.

40 COUNCILMEMBER POWELL MOVED TO OPEN THE PUBLIC HEARING.
42 COUNCILMEMBER BRODERICK SECONDED THE MOTION. ALL PRESENT
VOTED IN FAVOR. THE MOTION CARRIED

44 Mr. Van Wagenen opened the discussion by explaining this is a Planning
46 Commission initiated request to amend fencing standards in Lindon City Code 17.48.040

2 and 17.48.100(4), to remove the requirement that landscaping along street frontages in
the commercial zones must contain white vinyl ranch style fencing. Mr. Van Wagenen
4 noted that the Commission feels that the current requirement is a burden on businesses
and detracts from, rather than enhances, the commercial environment in Lindon, and
businesses should be able to choose what fencing they would prefer.

6 Mr. Van Wagenen then referenced the proposed amended language in the code.
Mr. Van Wagenen noted the Planning Commission unanimously recommended approval
8 to strike the white vinyl ranch style fencing requirement along public frontages in
commercial zones. Mayor Pro Tem Bean asked for some background as to why the
10 Commission felt that it was time to strike this language. Mr. Van Wagenen stated that the
Commission felt that the motif was out dated and is no longer relevant, that it is difficult
12 to maintain with a lot of broken fence pieces throughout the city and several business
have stated that it is difficult for the landscapers to work around. Mr. Van Wagenen noted
14 as this was discussed by the Commission they were very sensitive to the fact that putting
the requirement in the code was a long and arduous process and they understood it was
16 put in to provide unity and a recurrent theme throughout the commercial districts of
Lindon along with the "A little bit of country" theme. But, ultimately they felt that it was
18 time to move on from that requirement. Mr. Van Wagenen noted that not every
Commissioner was on the same area of the spectrum, as far as how to approach this issue.
20 He added that two (2) Commissioners voted no on the language in the Commercial
Design Guidelines (next agenda item). He noted they would like to see every reference
22 omitted in the city code. Some felt stronger than others, but ultimately it was unanimous
to strike, in the code itself, the white vinyl ranch style fencing requirement.

24 Audience member Dustin Sweeten addressed the Council at this time. He
mentioned that when he built his business in Lindon in 1992, the white vinyl fence was
26 not required at that time, but when he did a remodel in 1997 it was required. He noted
that it was started by Councilmember Lindsey Bayless (and other Councilmembers) as
28 they were looking for a way to differentiate Lindon from Orem and Pleasant Grove with
a recurring theme. He added, from a business point of view, the requirement added
30 additional expense and maintenance. He further noted that if the terms "suggested" or
"recommended" are used, businesses will not put in the fence.

32 Mayor Pro Tem Bean commented that this issue has evolved over the years and it
was interesting that the Planning Commission was in total agreement to eliminate the
34 requirement. Following some general discussion by the Council regarding this ordinance
amendment the Council was in agreement to also eliminate the requirement.

36 Mayor Pro Tem Bean called for any comments or questions from the Council.
Hearing none he called for a motion.

38
40 COUNCILMEMBER BRODERICK MOVED TO APPROVE ORDINANCE
#2014-7-O AMENDMENTS TO LINDON CITY CODE 17.48.040 AND 17.48.100(4)
AS SHOWN WITH NO CONDITIONS. COUNCILMEMBER POWELL SECONDED
42 THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

44 COUNCILMEMBER POWELL	AYE
COUNCILMEMBER BEAN	AYE
COUNCILMEMBER BRODERICK	AYE
46 COUNCILMEMBER HOYT	AYE

THE MOTION CARRIED UNANIMOUSLY.

2
3 **9. Public Hearing** – *Ordinance Amendment, Commercial Design Guidelines – Fencing*
4 *Standards (Ordinance #2014-8-O)*. This is a Planning Commission initiated request
5 to amend the Lindon City Commercial Design Guidelines to encourage, instead of
6 require, the installation of white vinyl fencing in commercial zones. The Planning
7 Commission recommends approval.

8
9 Mr. Van Wagenen gave a brief summary of this agenda item stating this is a
10 Planning Commission initiated request to amend the Lindon City Commercial Design
11 Guidelines to encourage, instead of require, the installation of white vinyl ranch style
12 fencing in commercial zones. Mr. Van Wagenen noted that the Planning Commission
13 has recommended that the Guidelines still refer to the white vinyl ranch style fence and
14 give specifications for its installation if any business chooses to use it. He noted that LCC
15 Sections 2.5, 4.2 and VI refer to the white vinyl ranch style fence. Mr. Van Wagenen
16 then referenced the proposed amended language and minor tweaks to the language.

17 Mr. Van Wagenen stated that the Planning Commission voted 4-2 in favor of the
18 proposed changes. Commissioner Marchbanks and Commissioner Kallas voted “nay” on
19 the motion. Commissioner Marchbanks expressed that he doesn’t like the fencing
20 generally, as an attractive product, and feels there should be no mention of it in the
21 Guidelines. Commissioner Kallas expressed that he doesn’t like having it mentioned in
22 the Guidelines if it is not a requirement by code; it felt “cumbersome.”

23 There was then some general discussion by the Council regarding this ordinance
24 amendment. Councilmember Broderick stated that he feels the city needs to be business
25 friendly and requiring the fencing does not accomplish that, but he would agree to
26 “encourage” rather than require it. Councilmember Hoyt commented that he likes the
27 theme “A little bit of country” and he likes Lindon businesses being unified, but he also
28 understands the need to be business friendly, but he does not mind “encouraging” the
29 fence but feels businesses will not install it if it is not required. Councilmember Powell
30 stated that she would actually like to strike the word “vinyl” and noted that over the years
31 the fencing has deteriorated. She also agreed that if it is “encouraged” business owners
32 will not put it up.

33 Mayor Pro Tem Bean called for any public comments. Hearing none he called for
34 a motion to close the public hearing.

35
36 COUNCILMEMBER POWELL MOVED TO CLOSE THE PUBLIC HEARING.
37 COUNCILMEMBER BRODERICK SECONDED THE MOTION. ALL PRESENT
38 VOTED IN FAVOR. THE MOTION CARRIED.

39
40 Mayor Pro Tem Bean called for any further comments or questions from the
41 Council. Hearing none he called for a motion.

42
43 COUNCILMEMBER BRODERICK MOVED TO APPROVE ORDINANCE
44 #2014-8-O THE AMENDMENT TO LINDON CITY COMMERCIAL DESIGN
GUIDELINES SECTIONS 2.5., 4.2, AND VI AS SHOWN WITH NO CONDITIONS.

COUNCILMEMBER HOYT SECONDED THE MOTION. THE VOTE WAS
RECORDED AS FOLLOWS:

COUNCILMEMBER POWELL AYE

COUNCILMEMBER BEAN AYE

COUNCILMEMBER BRODERICK AYE

COUNCILMEMBER HOYT AYE

THE MOTION CARRIED UNANIMOUSLY.

10. Discussion Item — *Procedure for Council Vacancy Interviews and Appointment.*

The Council and Staff will discuss the procedure for interviewing applicants and filling the Council vacancy at the February 18, 2014 Council meeting. Mayor Jeff Acerson will be participating in this discussion item by teleconference.

Note: Mayor Acerson participated via conference call on this agenda item.

Mr. Cowie gave a brief summary of this agenda item by explaining Staff has reviewed the State Code requirements regarding the Council vacancy and appointment process and have provided suggestions on how to proceed with interviews of the 12 applicants and final selection of the new Council member. Mr. Cowie noted that this will be a challenging decision because of the many qualified applicants that have applied for the vacancy. Mr. Cowie stated that prior to interviews he suggests informing the applicants that there are many other ways for them to serve the community including the Historical Commission, Planning Commission, Community Center/Senior Center, Lindon Days, Tree Board, Drill-down, etc.; and if not selected, the applicants may contact a Council member or Staff if they are interested in volunteering for other duties.

Mr. Cowie further explained that staff suggests that no more than 10 minutes be provided for each applicant to introduce themselves and answer questions from the Council, because of the large number of applicants, it may be beneficial to have a timer set up for each applicant interview. He noted that this way the applicants are all treated equally, similar to the "Meet the Candidates" event. However, some applicants may not need the full ten minutes for introductions and questions, and if each applicant uses the full ten minutes it will take two hours to get through all the interviews. Mr. Cowie noted there is a work session planned for February 18th at 6:00 p.m., but they do not plan to have any other substantial items on the February 18th agenda.

Mr. Cowie went on to say that after all of the interviews are completed the Council can deliberate on which applicant should be selected to fill the vacancy. He suggested that each Council member reveal their top 2 or 3 candidates with the hope that one or two top choices will stand out among all council members. The deliberation can then focus on those top individuals. He added that there is no requirement to disclose a reason why one applicant was chosen over another.

Mr. Cowie explained that after deliberation, the Mayor will call for a motion to appoint a new Council member and a majority of Council members (three) must approve the motion. Mr. Cowie stated that the Mayor is not able to vote on this item unless there is a tie decision. He went on to say if no candidate receives a majority of the votes on the first motion, the top two candidates will be considered on a second motion; if after a second motion and vote there is still no majority winner, the vacancy shall be filled by

2 the top two candidates drawing lots. Mr. Cowie stated that the selected Council member
3 will then be sworn-in at the next available City Council meeting, and if desired, the
4 Council may choose to continue the meeting without making a final decision. He noted
5 this would need to be done by a majority vote to continue the item to the next public
6 meeting. Mr. Cowie asked if there were any questions from the Council at this time.

7 Mayor Pro Tem Bean asked for clarification in the city code that references a 30
8 day vacancy period, drawing lots and selecting two candidates. City Attorney, Brian
9 Haws stated that the code is ambiguous but that is only if there is not a resolution
10 and he has no concerns about that as we are moving forward. Mr. Haws stated that we
11 may want to look at that code section in the future. There was then some general
12 discussion regarding the proposed interview procedure.

13 Following some additional general discussion by the Council regarding this
14 interview process it was agreed that the interviews will be timed with each applicant
15 given four (4) minutes to introduce themselves with a 30 second notice given before the
16 end of the time period, and, if desired, the Mayor and Council will have the option to ask
17 up to six (6) minutes of questions per applicant with another 30 second notice given
18 before the end of that time period. After the interviews each Council member will submit
19 their top 2 or 3 applicants to staff to narrow the applicant group. Staff will then announce
20 the finalist names and post them on the projector display for the public to see. The
21 candidates with 2 or more votes will continue to be discussed as finalists for the position.
22 The candidates with less than 2 votes will no longer be considered for the vacancy.

23 The Mayor and Council will then discuss which of the ‘finalists’ should be
24 selected to fill the vacancy. The Mayor will call for a motion after deliberation. A
25 Council member will provide a motion to select one of the finalists to be appointed to the
26 Lindon City Council. Three (3) affirmative votes will be needed to appoint an applicant.
27 If no one ‘seconds’ the motion, the motion fails. If a tie vote occurs (2 for and 2 against),
28 the Mayor can vote to break the tie. If a majority decision can’t be reached, the top two
29 applicants will be selected and the applicants will then draw lots to determine who is
30 chosen. If desired, the Council may continue the meeting for additional deliberation
31 and/or interviews.

32 Mr. Cowie noted that he will forward the summarized written procedures agreed
33 upon to the Council for their further review and to contact him with any changes.

34 **11. COUNCIL REPORTS**

35 **Councilmember Powell** – Councilmember Powell reported that Mayor Acerson attended
36 the North Utah County outreach in her stead. She also reported that she had a phone
37 meeting with the Healthy Lindon Commission. She noted they pulled Healthy Lindon out
38 from the Community Center Advisory Board and they are now their own separate entity
39 which works much better. She also made mention of the “Go for the goal” 10 week
40 Healthy Lindon Challenge. Councilmember Powell also reported that the Community
41 Center Advisory Board will meet on February 12th. She noted that Lindon Days is going
42 well with a meeting scheduled in March with Heath Bateman and the Lindon Days
43 committee. Councilmember Powell reported that Lindon Days this year will start on
44 August 2nd (if there is a Saturday event) and will run through the week of August 4th
45 through the 9th. Councilmember Powell reported that there are things coming up with the
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2 Chamber of Commerce but there has not been any additional information about the
3 Branding Committee.

4 **Councilmember Bean** – Councilmember Bean reported on issues related to the Planning
5 Commission vacancy. Kryshelle Travis was a possible member name mentioned who
6 may be interested in serving.

8 **Chief Cullimore** – Chief Cullimore reported on the recent tragic death of Utah County
9 Sherriff’s Officer Cory Wride. He noted the funeral will be held tomorrow at Utah
10 Valley University. He added that he plans on closing the Police Department Offices from
11 9 am to noon to allow all of the Officers to attend the funeral. Chief Cullimore also
12 reported that the Police Department will be sponsoring a “Flying Armed” class on
13 February 12th at the Community Center. There will be approximately 100 Officers
14 attending. Chief Cullimore also mentioned that Detective Tony Weinmuller is being
15 honored by the Veteran’s of Foreign Wars in American Fork on February 12th at 6 p.m.
16 Detective Weinmuller mentors Detectives from all over the State and is a great asset to
17 the Department.

18 Chief Cullimore also reported that the Police Officer vacancy position has been
19 offered to Jeremy Christensen, who is from Mapleton, and came in 2nd in the October
20 interviews. He will be starting on the 17th of February. Chief Cullimore also mentioned
21 that the Timp Academy is sponsoring a “Lindon Heroes Tribute Gala” on February 22nd
22 from 6-10 p.m. at the Community Center. The Council is invited to attend. This is for 1st
23 responders in Lindon and the funds collected will go to the Police Department
24 Emergency Response Trailer. Chief Cullimore also reported that the “Drug Take Back
25 Event” will be held on April 26th at Wal-Mart from 10-2 p.m.

26 **Councilmember Hoyt** – Councilmember Hoyt reported that he attended the North
27 County Animal Shelter Board meeting and noted that Lindon is well represented on the
28 Board. He also followed up on the three (3) possible new members to serve on the
29 Historic Preservation Commission. Mr. Cowie stated that he has the three names to give
30 to the Mayor for a formal recommendation and Mr. Van Wagenen will be contacting
31 them.

34 **Councilmember Broderick** – Councilmember Broderick reported that the Water
35 Technician position applications are coming in and he will be sitting in on the interview
36 process from February 17th to the 21st. He also reported that he will be attending the
37 Engineering Coordination Meeting on February 11th.

38 **Mayor Acerson** – Mayor Acerson was absent from this meeting.

40 **Administrator’s Report:**

42 Mr. Cowie reported on the following items:

44 **Misc Updates:**

- Project Tracking List

- 2 • 700 North CDA materials sent to Alpine School District. Awaiting meeting to discuss details.
- 4 • 2012-13 Audit Report is very near to being done. K&C auditors/accountants have been hired to finalize the report.
- 6 • Police Dept – vacancy update.
- 8 • Water Tech position in Public Works is advertised. Interviews probably will occur the week of 17th – 21st
- 10 • UTOPIA updates: Macquarie meeting weekly with UTOPIA cities ‘steering committee’ to report on Milestone one (1) progress.
 - OpEx payment discussions occurring with other cities
 - Todd Marriot, UTOPIA CEO, has resigned
- 12 • Claims update: Ryan Gardner (Lakeview), Century Link, Flygare case status
- 14 • URMMA will be coming to 6:00 p.m. Work Session with the Council on February 18th to answer any questions from the Council.
- 16 • Bicycle & Pedestrian Master Plan – please complete survey! Please send link to family and friends.
- 18 • Any desired topics for discussion at February 27th Budget Kick-off Meeting. The following topics may be discussed:
 - 20 • New employee/staffing needs
 - 22 • Large infrastructure/facilities projects
 - 24 • Large equipment needs
 - 26 • PARC tax priorities
 - Long-term facilities planning & financial planning
 - Need for impact fee studies & increases to various fees & utility rates – 2013. The Pressure Irrigation Report is attached.

Upcoming Meetings & Events:

- 28 • Newsletter Assignment: Councilmember Hoyt - March newsletter article. *Due by last week in February.*
- 30 • February 3rd at Noon – ULCT Legislative Policy Committee at State Capitol, Room W30. Mayor Acerson and Adam Cowie will attend.
- 32 • February 11th at Noon – Engineering Meeting at Public Works. Mayor Acerson, Councilmember Broderick and Councilmember Powell will attend.
- 34 • February 10th at Noon – ULCT Legislative Policy Committee at State Capitol, Room W30. Mayor Acerson and Adam Cowie will attend.
- 36 • February 12th at 5:00-7:00pm – Bicycle Master Plan Public Open House at Community Center. All Council is encouraged to attend.
- 38 • February 17th – Presidents Day/City Offices closed.
- 40 • February 24th at Noon – ULCT Legislative Policy Committee at State Capitol, Room W30. Mayor Acerson and Adam Cowie will attend.
- 42 • February 27th at 6:00 p.m. – Budget Kick-off Meeting & Dinner at City Center. All Council is encouraged to attend.
- 44 • March 3rd at Noon – ULCT Legislative Policy Committee at State Capitol, Room W30. Mayor Acerson and Adam Cowie will attend.

Future items:

- 2 • Policy Manual updates.
3 • Fee and Utilities rate studies / review of active service military utility waivers.
4 • Lindon Pumping Co. land – 725 E. 200 S., potential land sale/use by neighbor.
5 • Planning Commission member vacancy.

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7 Mayor Pro Tem Bean called for any further comments or discussion from the
8 Council. Hearing none he called for a motion to adjourn.

10 Adjourn –

12 COUNCILMEMBER BRODERICK MOVED TO ADJOURN THE MEETING
13 AT 11:00 P.M. COUNCILMEMBER HOYT SECONDED THE MOTION. ALL
14 PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

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Approved – February 18, 2014

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Kathryn Moosman, City Recorder

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Matt Bean, Mayor Pro Tempore