

2 The Lindon City Council held a regularly scheduled meeting on **Tuesday, October 19,**
3 **2010** beginning at 7:00 p.m. in the Lindon City Center, City Council Chambers, 100
4 North State Street, Lindon, Utah.

5 Conducting: Bret Frampton, Mayor Pro Tem
6 Pledge of Allegiance: Tyler Chatterton, Boy Scout Troop 889
7 Invocation: Bruce Carpenter

8 **PRESENT**

ABSENT

9
10 Lindsey Bayless, Councilmember (present by telephone) James A. Dain, Mayor
11 Bruce Carpenter, Councilmember
12 Bret Frampton, Councilmember
13 Jerald I. Hatch, Councilmember
14 Mark L. Walker, Councilmember
15 Ott H. Dameron, City Administrator
16 Cody Cullimore, Chief of Police
17 Debra Cullimore, City Recorder

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19 The meeting was called to order at 7:00 p.m.

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21 **MINUTES** – The minutes of the meeting of October 5, 2010 were reviewed.

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23 COUNCILMEMBER CARPENTER MOVED TO APPROVE THE MINUTES
24 OF THE MEETING OF OCTOBER 5, 2010. COUNCILMEMBER HATCH
25 SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

26 COUNCILMEMBER BAYLESS AYE
27 COUNCILMEMBER CARPENTER AYE
28 COUNCILMEMBER FRAMPTON AYE
29 COUNCILMEMBER HATCH AYE
30 COUNCILMEMBER WALKER AYE

31 THE MOTION CARRIED UNANIMOUSLY.

32
33 **OPEN SESSION** –

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35 Councilmember Frampton called for comments from any audience member who
36 wished to address an issue not listed as an agenda item. Jeff Dupais of UDOT presented
37 brief information regarding road closures associated with the UDOT I-15 Core project.
38 He reported that a full freeway closure will take place on November 18th to move in a
39 new bridge at Proctor Lane. On November 19th, the freeway will be closed again for
40 demolition of the 200 South bridge. 200 South will be closed at that time, and will
41 remain closed for approximately six months until construction of the new bridge is
42 completed. Mr. Dupais reviewed detour routes for the road closures. A lane shift will
43 also take place on the freeway in the coming week. In conclusion Mr. Dupais provided
44 contact information for residents to sign up for email or text updates on the project.

2
3 **MAYOR’S COMMENTS/REPORT** –

4 Councilmember Frampton reported on behalf of Mayor Dain. He announced a
5 Thanksgiving Dinner event which is currently being planned to provide dinner for those
6 in need. Mayor Dain is hopeful that there will be a great deal of community support for
7 the project. Councilmember Frampton also reported that the sod project in Fryer Park
8 has been completed.

9 **CONSENT AGENDA** –

10 No items.

11 **CURRENT BUSINESS** –

- 12
13 1. **Public Hearing** – *UIA Communications Service Contract (Resolution #2010-18-*
14 *R)*. The City Council will hear public comment and possibly act to approve
15 Resolution #2010-18-R which would approve a Communications Service
16 Contract between Lindon City and UIA which provides for the city to receive
17 certain telecommunication connection services and to pay service fees, and pledge
18 and lend it franchise tax revenues to secure the payment obligations of the City.
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21 COUNCILMEMBER HATCH MOVED TO OPEN THE PUBLIC HEARING.
22 COUNCILMEMBER CARPENTER SECONDED THE MOTION. ALL PRESENT
23 VOTED IN FAVOR. THE MOTION CARRIED.
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25
26 City Attorney, Brian Haws, was present for this discussion. He explained that the
27 agreement includes exhibits which specify the commitment of the City. He noted that the
28 legal form of the contract has not changed in a substantive way since previously reviewed
29 by the Council. Mr. Haws reviewed various points of the agreement. He stated that the
30 agreement is designed to provide the City with bulk wholesale communications services
31 including connectivity, contracting, and recruiting of service providers. Each
32 participating city agrees to be the contact point for citizens that sign up for services. The
33 City will collect fees and remit approximately 97% of the revenue to UIA, keeping
34 approximately 3% of revenues in the City cover administrative costs.

35
36 Mr. Haws stated that financial models and feasibility studies show indicate that
37 this is a viable project. Financial models used in the feasibility study are considered to be
38 conservative and do not make unreasonable assumptions. If aggregate fees are not
39 sufficient to meet the debt service obligation, UIA will issue bonds and participating
40 cities will use franchise tax revenue to pay debt service. Under the terms of the
41 agreement, Lindon is responsible for 3.27% of the overall debt service. Projected
42 payments are for debt service on the full bond. Funds will be drawn down as needed, and
43 the full bond amount may not be necessary as the network becomes more financially
44 viable.

45
46 Councilmember Carpenter explained that he has represented the City on the
47 UTOPIA Board for the past three years, and that the City has been a participating City for
48 approximately eight years. He explained that the intent of participating in UTOPIA was

2 to provide fiber optic infrastructure which would allow service to be installed by multiple
3 providers rather than each provider installing their own infrastructure, as well as to
4 discourage service monopolies. He observed that future economic growth will be highly
5 dependent on telecommunications capabilities, and that it will be necessary for cities to
6 be in a position to provide adequate services in order to attract new economic growth.
7 Councilmember Carpenter noted that he now represents the City on the UIA Board, and
8 that Mr. Dameron is now representing the City on the UTOPIA Board.

9 Councilmember Frampton expressed appreciation to Councilmember Carpenter
10 for his work on the UTOPIA and UIA Boards. Councilmember Frampton called for
11 public comment. Lee Livingston stated that he is a citizen of Lindon, as well as the CFO
12 for Fibernet Corporation, a UTOPIA service provider. Mr. Livingston stated that he also
13 serves on the Board of Directors for the Utah Valley Chamber of Commerce. Mr.
14 Livingston recalled a meeting he attended in Orem City eight years ago when UTOPIA
15 was under consideration. He recalled that current service providers at the time vowed in
16 that meeting to make sure UTOPIA was not successful. He observed that UTOPIA has
17 been very successful in creating the finest network available in Utah, and the UTOPIA
18 will inevitably be the choice made by consumers wherever it is an option.

19 Mr. Livingston observed that incumbent providers have very monopolistic
20 practices and have exhibited very non-competitive behavior historically. He expressed
21 appreciation for the efforts which have been made to ensure the fiscal aspects of the
22 project. He expressed support for the UTOPIA network, and felt that it is a success in
23 many ways. He felt that UTOPIA has driven higher quality, more competitive service
24 from incumbent providers as well.

25 Phil Windley stated that he is a Lindon resident and a supporter and customer of
26 UTOPIA. He used an analogy to explain UTOPIA, noting that it is infrastructure much
27 the same as railroads and highways. He noted that 100 years ago, railroads became
28 monopolies, and that use of the system to transport goods was under their terms. In the
29 1950's, a highway system was constructed which allowed anyone to transport goods. He
30 asserted that the UTOPIA concept is creating a new highway system for 21st century
31 service providers, and that UTOPIA represents the best hope of creating a successful
32 internet society. He stated that he wishes more cities in Utah had the courage and vision
33 Lindon City has shown in participating in UTOPIA. He encouraged the Council to
34 support UIA and UTOPIA, noting that allowing growth of the system would be good for
35 citizens in the future.

36 Ryan Gibbons stated that he is also a Lindon resident. He echoed the comments
37 made by others. He stated that the only complaint he hears regarding UTOPIA is that
38 new connections are unavailable at this time. Councilmember Carpenter explained
39 events which have occurred which have temporarily delayed installation of new
40 connections. He noted that connections are quite costly, and that the new UIA structure
41 will provide a mechanism which will require users to pay connections costs over a period
42 of time. Connection fees will be collected by the City on monthly utility bills and
43 forwarded to UIA. This structure will allow new installation without UTOPIA incurring
44 debt for the connection costs. Mr. Dameron noted that once the connection fee is paid in
45 full, the homeowner owns the connection, which could increase property value of the
46 home or business.

2 An unidentified audience member requested clarification regarding the cost of
installation and services. Councilmember Carpenter stated that the full cost of
4 connection is expected to be approximately \$2,700 per connection. He clarified that
residents who are already connected to the system will experience no change in costs or
6 billing procedures. New connections will pay approximately \$30 in connection fees per
month, along with service provider fees. Once the cost of installation of infrastructure is
paid in full, the user will no longer be required to pay the installation fee.

8 Another unidentified audience member inquired as to the difference in function of
the UIA and UTOPIA. Councilmember Carpenter explained that UIA is the financing
10 mechanism to manage revenues and expenditures for UTOPIA.

12 Councilmember Frampton called for further comments or questions from the
audience. There was no additional public comment. He called for a motion to close the
public hearing.

14
16 **COUNCILMEMBER WALKER MOVED TO CLOSE THE PUBLIC
HEARING. COUNCILMEMBER HATCH SECONDED THE MOTION. ALL
PRESENT VOTED IN FAVOR. THE MOTION CARRIED.**

18
20 Councilmember Walker expressed appreciation for comments from the public.
He noted that he is a lifelong resident of Lindon, but that he was not on the City Council
in 2001 when the City joined UTOPIA. He stated that he has made an effort to educate
22 himself regarding UTOPIA and UIA, and that as a citizen he is concerned with the fiscal
aspects of participation. He stated that he feels an obligation to vote in what he feels is
24 the best interest of the City on this matter. He stated that he would not feel comfortable
investing his own money in this project, and that he does not feel comfortable committing
26 to further financial obligation for the City.

28 Councilmember Hatch stated that he has served on the Council during the entire
UTOPIA process. He explained that the City joined UTOPIA in response to concerns
expressed by residents that adequate telecommunications services were not available. He
30 noted that incumbent providers were not willing at that time to make services available in
Lindon and other communities, which prompted local governments to initiate the
32 UTOPIA project. He agreed that the fiscal obligation is a concern, but felt that Lindon
residents would benefit from UTOPIA in the long run.

34 Councilmember Carpenter observed that the decision to participate in UTOPIA is
not being made tonight, but was made eight years ago. He noted that several decisions
36 and challenges early on have prevented UTOPIA from progressing as far as it could have
at this point. He noted that arguments against UTOPIA are similar to arguments in the
38 early 1900's regarding construction of electrical lines when many felt that coal oil lamps
were an adequate source of light. He noted that installation of infrastructure is costly, but
40 that it will pay for itself over time. Councilmember Carpenter noted that
telecommunications infrastructure enhances the quality of life for the community in the
42 same way as other infrastructure, such as water lines, sewer lines and roads which are
typically constructed and maintained by municipal governments.

44 Councilmember Carpenter clarified that the City has an existing financial
obligation for debt service for the next 27 years. He observed that if this agreement is not
46 approved and UTOPIA is allowed to fail, the City will be required to meet the existing

2 financial obligation with no possibility of increasing revenue through UTOPIA
connections. He stated that in his view, it would be ‘reckless’ to not find a plan that can
4 lead to the success of the system. He observed that allowing UTOPIA to fail would in a
sense be allowing service to the 35% of homes in Lindon who are currently UTOPIA
customers to be terminated, leaving those residents without service.

6 Councilmember Bayless noted that during initial discussion regarding UTOPIA
eight years ago, she recused herself from the discussion due to a conflict of interest. She
8 stated that she no longer has the conflict, and is now able to participate in discussion and
action regarding UTOPIA. She noted that she is not currently connected to UTOPIA due
10 to the fact that it is not available on her street. However, she will connect to the system if
and when it becomes available to her. She stated that she feels a commitment to maintain
12 the current level of service for the residents who are currently using the system.

14 Councilmember Bayless stated that she is fully aware of the potential impact of
the financial commitment and the many obstacles that have come along to cause financial
difficulties for UTOPIA. She stated that at this time, she has no hesitation in moving
16 forward with this agreement, because she understands the potential for the future of
UTOPIA and the benefit to Lindon residents and businesses. She noted that the
18 availability of this level of service will increase the probability of attracting high quality
business to Lindon. She felt that it would be irresponsible to not move forward with the
20 agreement.

22 Councilmember Frampton acknowledged that this is a difficult decision, and that
he has made an effort to understand the intricacies of the agreement. He expressed
appreciation to Councilmember Carpenter, Mr. Dameron, and Mr. Haws for their efforts
24 in making the information accessible and understandable. He expressed appreciation for
comments from the audience in favor of UTOPIA, but noted that he has received
26 negative feedback from residents as well. He called for further comments or discussion
from the Council. Hearing none, he called for a motion.

28
30 COUNCILMEMBER CARPENTER MOVED TO APPROVE RESOLUTION
#2010-18-R APPROVING THE COMMUNICATIONS SERVICE CONTRACT
BETWEEN LINDON CITY AND THE UTAH INFRASTRUCTURE AGENCY.
32 COUNCILEMMBER BAYLESS SECONDED THE MOTION. THE VOTE WAS
RECORDED AS FOLLOWS:

34 COUNCILMEMBER BAYLESS AYE
COUNCILEMMBER CARPENTER AYE
36 COUNCILMEMBER FRAMPTON NAY
COUNCILMEMBER HATCH AYE
38 COUNCILMEMBER WALKER NAY
THE MOTION CARRIED (3-2).

- 40
42 2. **Public Hearing** – *Ordinance Adoption – Section 9.16.060 – “Spice” (Ordinance*
#2010-7-0). The City Council will hear public comment and possibly act to
44 approve ordinance #2010-7-O which would make unlawful the manufacture,
distribution, use, possession, purchase, attempt to purchase, sell, publicly display
46 for sale, attempt to sell, give, trade or barter any one or more of the chemical
compounds commonly known as “Spice.”

2 COUNCILMEMBER HATCH MOVED TO OPEN THE PUBLIC HEARING.
3 COUNCILMEMBER WALKER SECONDED THE MOTION. ALL PRESENT
4 VOTED IN FAVOR. THE MOTION CARRIED.

6 City Attorney, Brian Haws, along with Officer Darrell Bingham and Chief
7 Cullimore were present for this discussion with the Council. Mr. Haws explained that
8 this ordinance creates Section 9.16.060 of the Lindon City Code pertaining to the
9 purchase, sale or use of Spice within the City limits. He noted that a number of
10 communities are moving forward with similar ordinances, and that existing ordinances in
11 force in Utah County, Ogden City and Cache County were reviewed prior to drafting the
12 Lindon City Ordinance. He noted that the State Legislature is expected to consider a
13 Spice bill during the coming session. He explained that the City ordinance can be more,
14 but not less, restrictive State law. The ordinance is drafted to prohibit any future agonists
15 or analogs if the intent is to mimic the effect of THC on brain receptors.

16 Councilmember Walker inquired as to how violations of this ordinance will be
17 prosecuted. Officer Bingham explained that enforcement of use violations will typically
18 occur if the user is driving under the influence, or is found to be a danger to themselves
19 or others. If a person is found in possession of Spice, they can be charged with
20 possession. Paraphernalia is also addressed in the ordinance. Officers will be trained to
21 articulate reasonable suspicion based on the laws in any reports related to Spice arrests.
22 Mr. Haws noted that prosecution will be determined on a case by case basis depending on
23 specific evidence, but that without the Ordinance, the substance will be legal without any
24 option to prosecute. Chief Cullimore noted that the Lindon City ordinance may be used
25 as a model for other municipalities as law enforcement moves ahead to address the use
26 and dangers associated with this drug. He noted that businesses will receive one warning
27 regarding the sale of Spice, after which they will be prosecuted if they continue to sell the
28 product.

29 Councilmember Frampton called for public comment. Audience member Dennis
30 Butler commented that his son became involved with smoking Spice approximately one
31 year ago. He indicated that his son experiences some mental health issues, and that the
32 effect of spice was very detrimental. When Mr. Butler visited the smoke shop where his
33 son was purchasing the drug, he was informed that it was completely legal and
34 unregulated. He also commented that he has been told that many customers are currently
35 on probation or parole for other offenses, and that they use Spice because there is
36 currently no testing to detect the substance in the system after use.

37 An unidentified audience member inquired as to the charge for violation of the
38 ordinance. Mr. Haws stated that violations will be a Class B misdemeanor, and will be
39 prosecuted through Lindon Justice Court. Officer Bingham stated that there will likely
40 not be an enhancement for drug free zones associated with Spice, as it is not a specific
41 controlled substance.

42 Councilmember Frampton called for further public comment. There were no
43 additional comments. He called for further comments or discussion from the Council.
44 Hearing none, he called for a motion.

2 COUNCILMEMBER WALKER MOVED TO CLOSE THE PUBLIC
HEARING. COUNCILMEMBER HATCH SECONDED THE MOTION. ALL
PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

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6 COUNCILMEMBER CARPENTER MOVED TO APPROVE ORDINANCE
#2010-7-O ADOPTING LCC SECTION 9.16.060 – SPICE. COUNCILMEMBER
WALKER SECONDED THE MOTION. THE VOTE WAS RECORDED AS
8 FOLLOWS:

10 COUNCILMEMBER BAYLESS AYE
10 COUNCILMEMBER CARPENTER AYE
12 COUNCILMEMBER FRAMPTON AYE
12 COUNCILMEMBER HATCH AYE
14 COUNCILMEMBER WALKER AYE

14 THE MOTION CARRIED UNANIMOUSLY.

16 Councilmember Bayless was excused from the meeting at 8:35 p.m.

18 **ADJOURN THE MEETING OF THE LINDON CITY COUNCIL AND CONVENE**
THE MEETING OF THE LINDON CITY REDEVELOPMENT AGENCY

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22 COUNCILMEMBER CARPENTER MOVED TO ADJOURN THE MEETING
OF THE LINDON CITY COUNCIL AND CONVENE THE MEETING OF THE
LINDON CITY REDEVELOPMENT AGENCY AT 8:35 P.M. COUNCILMEMBER
24 HATCH SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE
MOTION CARRIED.

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28 **ADJOURN THE MEETING OF THE LINDON CITY REDEVELOPMENT**
AGENCY AND RECONVENE THE MEETING OF THE LINDON CITY
COUNCIL

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32 BOARDMEMBER CARPENTER MOVED TO ADJOURN THE MEETING OF
THE LINDON CITY REDEVELOPMENT AGENCY AT 8:38 P.M. BOARDMEMBER
34 WALKER SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE
MOTION CARRIED.

36 **COUNCIL REPORTS –**

38 Councilmember Frampton invited Mr. Dameron to give his report. He reported
on the following items:

- 40 1. The groundbreaking ceremony for the Murdock Canal piping and trail project will
be held October 20th at noon in Cedar Hills.
42 2. Election Day will be November 2, 2010. There will be no City Council meeting
due to the election. The next regular City Council meeting will be November 16,
44 2010.

3. Engineering Coordination Meeting will be held Tuesday, November 9th at noon at the Public Works Complex. Councilmember Frampton and Councilmember Walker will attend.
4. The sod planting in Fryer Park is complete. The parking area will be completed by the City, and is expected to be completed in the next week.
5. The family Christmas party will be held December 23rd at noon at the Community Center. There will be no employee Christmas party.
6. An Open House to take comment on General Plan updates will be held Tuesday, November 30th at the City Center from 6:00 to 8:00 p.m. Information on the Heritage Trail expansion will also be available at the Open House.
7. Mayor Dain is planning a Thanksgiving Dinner event for the homeless and needy.
8. City staff will make a presentation to the Water Quality Board regarding bonding for the sewer lift station project. Approval of the bond is anticipated the second week of November.
9. Refunding of several bonds was discussed at a previous meeting. However, upon further investigation refunding would not result in any cost savings, and will not be pursued.
10. Bids are being solicited for architectural work for the Senior Citizen's Center.
11. A Public Hearing regarding adoption of the Public Safety Impact Fee is scheduled for November 16, 2010.
12. Sales tax revenues have increased over the past several months.

COUNCILMEMBER CARPENTER – Councilmember Carpenter thanked the Council for the productive discussion regarding the UIA Agreement action item earlier in the meeting. He noted that the Council is faced with difficult decisions from time to time.

COUNCILMEMBER WALKER – Councilmember Walker reported on efforts to refine the structure and accounting methods for the Lindon Days Committee.

COUNCILMEMBER HATCH – Councilmember Hatch reported on follow-up regarding a report of a resident being overcharged for dumping a trailer load at the transfer station. He stated that records indicate that the resident was not overcharged.

COUNCILMEMBER FRAMPTON – Councilmember Frampton discussed the need to find someone who would be willing to take over administrative responsibilities with the youth baseball program, which is not currently a City program. Mr. Dameron suggested that Councilmember Frampton meet with the Parks and Recreation staff to discuss options.

COUNCILMEMBER BAYLESS – Councilmember Bayless was not present at the meeting during Council reports.

ADMINISTRATOR'S REPORT –

Mr. Dameron gave his report earlier in the meeting.

2 COUNCILMEMBER CARPENTER MOVED TO APPROVE THE PAY
VOUCHERS. COUNCILMEMBER HATCH SECONDED THE MOTION. THE VOTE
4 WAS RECORDED AS FOLLOWS:

COUNCILMEMBER CARPENTER AYE

6 COUNCILMEMBER FRAMPTON AYE

COUNCILMEMBER HATCH AYE

8 COUNCILMEMBER WALKER AYE

THE MOTION CARRIED UNANIMOUSLY WITH ONE ABSENT

10

ADJOURN –

12

COUNCILMEMBER WALKER MOVED TO ADJOURN THE MEETING AT
14 9:11 P.M. COUNCILMEMBER HATCH SECONDED THE MOTION. ALL
PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

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Approved – November 16, 2010

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Debra Cullimore, City Recorder

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James A. Dain, Mayor

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